

**SELECTBOARD MEETING
TUESDAY, NOVEMBER 21, 2017
SELECTBOARD MEETING ROOM – 7:00 P.M.
AGENDA**

Note: Not all the topics listed in this notice may actually be reached for discussion. In addition, the topics listed are those which the chair reasonably expects will be discussed as of the date of this notice.

1. CALL TO ORDER
2. APPROVAL OF MINUTES *October 10, 2017 Regular Selectboard Minutes*
3. ANNOUNCEMENTS/OPEN FORUM
4. CONSENT AGENDA
 - A. Requests for One Day Beer and Wine License: Willets-Hallowell MHC, Stimson Room Reception, Rachel Osborne, December 2, 2017
5. INTERVIEW; Alex Krofta Associate Member, Conservation Commission
6. NEW BUSINESS
 - A. Bike/Walk Committee Mosier/Leaping Brook Trail (Toth) Summary Update
 - B. Handicap Advisory Committee Request
 - C. Cannabis By-law/Moratorium/Ballot
 - D. Solicitation of Interest for Ledges RFP Oversight
 - E. MassWorks Grant Engineering Costs/ Smart Growth Grant
7. RESIGNATIONS/APPOINTMENTS
8. OTHER BUSINESS
 - A. FY 2018 Budget
 - B. January Special Town Meeting
 - C. Symposium of Understanding
 - D. Granby/South Hadley Building Commissioner
9. TOWN ADMINISTRATORS REPORT
10. CHAIRMAN'S REPORT
11. ADJOURN

**SELECTBOARD MEETING
OCTOBER 10, 2017
SELECTBOARD MEETING ROOM – 7 P.M.
MINUTES**

Present were Members: Chair Sarah Etelman, Vice Chair John R. Hine, Clerk Andrea Miles, Bruce C. Forcier and Ira J. Brezinsky; Town Administrator Michael J. Sullivan.

Chair Etelman called the meeting to order at 7 p.m., noting that all members were present.

1. APPROVAL OF MINUTES

Approval of the September 19, 2017 Selectboard minutes was tabled until the next meeting since they had not yet been distributed.

2. ANNOUNCEMENTS/OPEN FORUM

The quarterly Professional Development Day will be held this Friday, October 13, 2017, Mr. Sullivan announced. The program will focus on increasing/developing cultural competency in the workplace. The presentation will begin at 12 o'clock, so Town Hall will be closed at noon, he said.

3. WELCOME AND INTRODUCTION OF NEW EMPLOYEES

Marc Guillemette, Building Commissioner – Mr. Guillemette has been employed as Building Commissioner since July (2017). He started in an Interim role and, as Mr. Sullivan stated, “has done an outstanding job.” Mr. Guillemette brings with him a lot of experience and came from the town of Westborough. He has gotten to know a lot of the contractors and has moved a lot of issues that we’ve been working on very quickly. For a time, South Hadley was assisting Granby as they didn’t have a Building Commissioner, but had to sever this relationship as it was taking too much time away from South Hadley. Mr. Guillemette said he’s received great feedback and it’s been a great experience so far.

Anne Capra, Conservation Administrator – Mr. Sullivan introduced her and said she also came in as the Interim Conservation Administrator in July and has hit the ground running. Ms. Capra comes with a lot of experience; she previously worked for PVPC and as consultant for a number of communities throughout the state. Mr. Sullivan said that managerial decision was made to make her position the Conservation Administrator/Planner. She will be facilitating the Redevelopment Authority, as well as the Conservation Commission. Ms. Capra is very accomplished in grant writing and very diligent in her work. Ms. Capra said she has been enjoying the position the past few months and is looking forward to digging in and taking on bigger initiatives.

Matthew Bosowicz, Police Officer -- Steve Parentela introduced Mr. Bosowicz. He is currently in the police academy, with 10 weeks left of a 26-week program. Mr. Bosowicz came from Ludlow and has some dispatch experience and is being trained as a police officer. He’s a lifelong South Hadley resident and looking forward to working in town.

Corey Whelihan, Police Officer – Steve Parentela introduced Mr. Whelihan and mentioned that he was appointed as a cadet at the same time as Mr. Bosowicz. He is also a member of the South Hadley community and went through the school system here. His father has been on the job since 1986. Mr. Whelihan was a special police officer with dept. and was recently appointed full-time. He said he grew up here and has been around the department his entire life, so it was pretty special to get hired here.

Elaine Guan, SHPL Dispatcher -- Chief Parentela stated Ms. Guan is the fifth dispatcher, hired to fill a shortage in the Communication Center. She just graduated with a bachelor’s degree from AIC in criminal justice. She’s been full time in dispatch for one full month, went through the field training and is on night shift. Ms. Guan said she is still getting to know the town and everyone in it. Her ultimate goal is to become a cadet, maybe chief.

Joe Rodio, Library Director, introduced the new library hires. Mr. Rodio stated they have had several new hires at the library this last year, partly due to operating Gaylord as branch library as of July 1st. They also had the retirement of a librarian, as well as part-timer who left.

Ted McCoy, Branch Librarian at Gaylord Library. Mr. McCoy has experience working at the Springfield city library, Oakland Library, and in a past life, was a practicing attorney. He said he has loved his time so far at the Gaylord. He said it's been an interesting transition moving into the identity of now being a branch. He said the team is amazing and he feels really lucky with the staff and all the resources they have in the community.

Anna Garvin, Library Assistant at Gaylord Library. Ms. Garvin has strong library experience including working for Jones Library and Mount Holyoke Community College. She's been working at the Jones for a little over two years. She really loves library work and is looking forward to learning about the community and the Gaylord.

Betsy Cook, Library Assistant at South Hadley Public Library. Ms. Cook is the Library Assistant, working primarily at the Circulation desk. Her previous experience includes the Whately Public Library and Wilbraham Public Library. Ms. Cook lives in Chicopee and has made the South Hadley Public Library her primary library of choice. She said it's been great to learn a little bit more about the town and getting to the know the community and what people are interested in.

Kyle Boyd, Library Assistant at South Hadley Public Library. Ms. Boyd started as an intern last winter, working in the local history room and has helped make a lot of progress in the collections. She has a library background having worked at Jones Library. She's in graduate school pursuing her Master's degree in Library Science. Ms. Boyd stated that she loved working as an intern in the local history room and is glad this position opened so she could stay on in a more permanent role.

4. NEW BUSINESS

Entertainment License

Bruno Coelho from Drunken Rabbit, LLC was present to discuss his application for an Entertainment License. Mr. Sullivan stated that he and Mr. Coelho had a discussion regarding some of the restrictions, including music going no later than 10pm on Saturdays. Mr. Coelho stated they'll be open Wed – Sunday, but their hours won't extend past 9pm. He also clarified that all entertainment would be indoors, but there is an outdoor patio area. The hours of operation are Monday – Saturday from 12pm – 9pm and Sunday from 11am – 6pm. They're hoping to open for business the last week of November. SB Member Forcier moved to approve the entertainment license for Drunken Rabbit, LLC as spelled out in the application. SB Member Brezinsky seconded. The motion passed unanimously 5:0.

Vote to Authorize Chair/Vice Chair to Sign Documents to allow transfer of ownership of 27 Bardwell Street or 1 Canal Street.

SB Chair Etelman noted that she will be out of town next week so would like to vote to authorize either the chair or vice chair to sign the documents. SB Member Brezinsky moved to approve. SB Member Forcier seconded. The motion was passed unanimously 5:0.

5. RESIGNATIONS/APPOINTMENTS

Mr. Sullivan announced that Laura Krutzler, Selectboard Administrative Secretary, has accepted a job in Northampton.

6. OTHER BUSINESS

Special Town Meeting Discussion

Mr. Sullivan gave an update that they haven't gotten the DHCD report back on the initial redevelopment plan. The next steps are that plan needs to be approved, it then goes back to the Public Board and they have to hold a public hearing. So, it's highly unlikely that there will be a Special Town Meeting in November. 40R also has to come back

and there is a process once that comes back which includes to hold another town meeting. Looking at the calendar, Mr. Sullivan thinks they're looking at the first or second Wednesday in January for the Special Town Meeting.

The other time pressing issue was getting permission from Town Meeting to allow the Selectboard to seek special legislation to change the date of election. Mr. Sullivan thinks that even if they had the meeting, special legislation would be challenged. His recommendation is to take the vote at the Special Town Meeting in January, seek the special legislation but look for it to occur in 2019 rather than 2018.

Other issues for the Special Town Meeting include the ice cream fingerprinting.

Symposium of Understanding

Mr. Sullivan wanted to make sure that everyone knows that this week's Professional Development Day will be part of the Symposium of Understanding. They'll be using the platform that was built at previous meeting with first responders. Mr. Sullivan said they're looking towards having a larger community meeting on a Saturday in November or December. A date hasn't been established yet, but they'll be sensitive to holidays.

Town Administrators Report

Mr. Sullivan mentioned they will be installing lighted bollards along the path and three more by the parking lot. The Parks Committee wanted to see how the first three looked, so these will likely be installed by next spring. There are new trash cans going in and there will be a new bike rack installed and a new pad poured.

Golf course issue

SB Member Brezinsky stated that it's his hope that they will make a decision at the next meeting, at least in the near term, as to whether the golf course will be open next year. It's been pointed out that the longer they take to decide, the more financial harm they do. It's his hope that, and if the board agrees, they'll make a decision on the 24th and get the word out so anybody who wants to be a part of the conversation will be able to do so.

SB Chair Etelman stated that, what she's been thinking and what has been discussed in the Chair/Vice Chair meeting with the Town Administrator, is that they want to hear testimony on the 24th from the community and then give the board time to digest what they've heard so they can come ready to make a decision at the November 7th meeting. She said that she's not ready to say tonight that she will be ready to make a decision on the 24th.

SB Member Brezinsky reiterated that, given all the issues, particularly trying to run a private business in a public arena, the longer they wait the more damage they do to themselves. He reiterated that he'd like to get the word out that there is a possibility a decision will be made on the 24th so both the public and other appointed boards (namely Golf Commission and Appropriations Commission) are given notice and the opportunity to have input. Giving the appointed boards notice will also allow them to decide if they want to take a position and have input at a posted meeting. SB Chair Etelman said they would not delay their decision past November 7th.

SB Clerk Miles encouraged people to continue to send in their emails. She said they are receiving, and reading, every single email. She encouraged people to continue to send feedback as that will help move things along on the 24th. SB Chair Etelman strongly encouraged people to use e-mail to selectboard@southhadley.ma.gov rather than emailing an individual Selectboard member so it doesn't take additional time to forward those emails on.

They will start putting out ground rules for 24th as well. Namely that anyone wanting to give testimony will be given no longer than two minutes. They will be asked to identify themselves and give their precinct. The Selectboard wants to make it as fair to everybody as possible, and give everybody the chance to weigh in. SB Clerk Miles agreed that "the state of suspended animation" is very stressful for everybody. The not knowing is bad for business and it's bad for morale.

Mr. Sullivan mentioned that in the draft they said they were particularly looking for Town Meeting Members and were going to ask them to speak first. Following the Town Meeting Members would be residents and then guests of

the town. Mr. Sullivan said he has encouraged those calling by phone to write down comments (preferably email) rather than phoning in. This simply has more credibility since the information is not be relayed secondhand.

SB Member Brezinsky stated that over course of 20 years or so, there have been several important documents that the town has dealt with -- from original consultant's plans to recommendations that have been made, etc.. He thinks it would be helpful if we were able to put together a compilation of what would be most pertinent of those types of documents for people to be able to come in and look at/research. He commented that he has been thoroughly impressed with the thoughts and input that have come in. That being said, there is also a good deal of urban myth out there. The more facts that we can have, and provide as resources to people as they form and research their opinions, the better off they will be. Mr. Sullivan commented that they don't have some of the reports some people are referring to. He said they do have a 2011 report, 2007 report and 2004 report. They have a newspaper article that was supplied by Springfield Republican and a press release to Western Mass golf. The 2011 report is 88-page report but, roughly 45 pages of it are irrelevant. SB Vice Chair Hine mentioned the National Golf Foundation report, which Mr. Sullivan confirmed was the 2011 report. He also mentioned the Advisory from Office of Inspector General which Mr. Sullivan confirmed is available.

SB Chair Etelman said some of the questions coming in are interested in the original contract, or the vote at Town Meeting. Mr. Sullivan mentioned the cost of the property was around \$756,000, of which \$500,000 came from a UPARC grant and \$256,000 was a tax donation. SB Chair Etelman asked if there could be a simplified timeline available, including date of vote, date course opened, date of clubhouse vote etc. Mr. Sullivan is trying to make sure the public understand that they're trying to be respectful of things that are needed and relevant for the conversation. He said he thinks it's unfair to have a conversation about what the golf course could be used, is being used for, until a decision is made. SB Clerk Miles stated that there's been a lot of confusion about what happens if the course closing -- what happens to the land, can it be used for something else, etc.

SB Chair Etelman said the specifics of what the grant said and of what the land can be used for is relevant, but she doesn't want to get into what the golf course will become if it's closed. The conversation shouldn't be about specifics of what the golf course could be. SB Member Brezinsky agreed that the conversation is more of a financial decision than anything else. He thinks it's important to provide some kind of estimate of what the cost to the town will be if the land is left dormant. Mr. Sullivan said when you look at other open spaces in town, they probably spend under \$100 an acre. One of the challenges is, if compared to Black Stevens, etc., people would be surprised to hear how little is spent. SB Vice Chair Hine pointed out that there is a building there, so presumably there will be some cost associated with that. Mr. Sullivan said, if vote were to close it permanently, they would probably drain it and do a complete lock down of it. The lock down alone could cost \$3,000-\$4,000. Mr. Sullivan said locking it down is not a good idea for the long term. SB Chair Etelman said those kinds of facts should be gathered and available for the meeting on the 24th.

SB Member Forcier moved to adjourn. SB Member Brezinsky seconded. The meeting was adjourned at 7:57 p.m.



FEE: \$30

**TOWN OF SOUTH HADLEY
SPECIAL LICENSE
WINE AND MALT APPLICATION
(Revised 5/2015)**

To the Licensing Authorities:

Date: 11/10/17

The undersigned hereby applies for a Special License – Wine and Malt in accordance with the provisions of the Statutes relating thereto:

NAME: WILLITS-HALLOWELL CENTER
COMPANY/ORGANIZATION: MOUNT HOLYOKE COLLEGE
ADDRESS: 50 COLLEGE ST, S. HADLEY, MA 01075
TELEPHONE: 413-538-2220
DATE APPLIED FOR: SATURDAY, DECEMBER 2, 2017
REMISES TO BE LICENSED: STIMSON ROOM
HOURS OF OPERATION: 3:30 - 7:30 PM
ALCOHOL WILL BE (CHECK ONE): SOLD GIVEN AWAY PROVIDED
TYPE OF EVENT: RECEPTION

RESTRICTIONS ON SPECIAL LICENSE – WINE AND MALT

1. If the event is to be held indoors in a building or structure not certified as a place of assembly, an inspection must be requested and performed by the building inspector and the head of the fire department. To schedule an inspection, please call 413-532-5343 (District 1) or 413-534-5803 (District 2).
2. Per MGL Chapter 138, Sections 12 and 33, alcohol cannot be sold between the hours of 2 a.m. and 8 a.m. Monday-Saturday or between the hours of 1 a.m. and 12 noon on Sunday.

LIABILITY DISCLAIMER FOR SPECIAL LICENSE – WINE AND MALT

By exercising the privileges of this license in serving persons with alcoholic beverages, the licensee is potentially exposed to significant liability for injuries and damages to persons served or to others who are injured or damaged by the persons served. Your acceptance and exercise of this license will be deemed to be acknowledgement that you are aware of this potential liability. You are encouraged to discuss the risks associated with exercising your privileges of the license and the precautions appropriate to avoid injuries, damage and liability to others with your legal advisor. The Town of South Hadley, and the Select Board as Local Licensing Authority, shall not be liable to the licensee or others if injury or damage shall result from the exercise of the license.

Signature of Applicant: Rachel A. Colborn

LIQUOR LIABILITY INSURANCE REQUIREMENT
For any event where alcohol is to be sold on town-owned property, liquor liability insurance naming the Town of South Hadley as an additional insured must be obtained prior to the event with a minimum per occurrence amount of \$250,000. A certificate of insurance showing liquor liability insurance coverage must be submitted to the Selectboard office at the time of application.



Courtney Hummel <chummel@southhadleyma.gov>

Fwd: Online Form Submittal: Application for Appointment to Board, Commission, or Committee

Courtney Hummel <chummel@southhadleyma.gov>
Draft

Thu, Nov 16, 2017 at 11:02 AM

----- Forwarded message -----

From: <noreply@civicplus.com>
Date: Wed, Nov 15, 2017 at 8:27 PM
Subject: Online Form Submittal: Application for Appointment to Board, Commission, or Committee
To: lkruzler@southhadleyma.gov, chamlin@southhadleyma.gov

Application for Appointment to Board, Commission, or Committee

Step 1

Committees

Before the Selectboard or other appointing authority makes appointments, they would like to know a little about you and why you feel you could contribute to the board or committee. Please take a few minutes and complete the brief expression of interest information below and click submit to send your application for consideration.

You can also [print and mail a written copy \(PDF\)](#) to the Selectboard Office at 116 Main Street South Hadley MA 01075.

Please Note: when submitting online, when you click the "submit" button you are agreeing to read a copy of the Massachusetts General Laws Chapter 268A "Conflict of Interest" provided by the Town Clerk, if appointed, and to the best of your abilities agree to abide by the provisions of the statute. You may receive a phone call to confirm your interest in the appointment.

Choose From the Following Conservation Commission

List your board or committee choices here in the order of preference. If you selected "Other" above, please indicate which board or committee you wish to apply for.

Please give any details regarding your interest in this appointment? As an environmental professional I am interested in further developing my expertise regarding the Wetlands Protection Act, as well as using my skills and knowledge to help protect South Hadley's natural resources.

Please Provide the Following Information

Name	Alex T Krofta
Email	[REDACTED]
Address1	38 Carew Street
Address2	Field not completed.
City	South Hadley
State	Massachusetts
Zip	01075
Primary Phone	[REDACTED]
Alternate Phone	Field not completed.
Cell Phone:	Field not completed.
General Questions	
Are you a registered voter in the Town of South Hadley?	No
Are you a Town Meeting Member?	No
Is any of your immediate family employed by the Town of South Hadley?	No
Do you now or have you previously served in Town government?	No
What skills and experience do you have? (Knowledge, other volunteer experience, employment experience, etc.)	see cover letter and resume
Please list any additional information you think may be helpful in reviewing your application.	see cover letter and resume
How did you learn of the vacancy you are applying for?	Other
If you indicated another resident or other above, please provide the resident's name or provide additional details.	I talked to Scott Jackson at the Fall MACC conference, and talked to Anne Capra at the DCR trails conference, about how to get involved with the South Hadley Conservation Commission.
Upload a Letter of Interest	Alex Krofta - cover letter and resume - Associate Conservation

[Commissioner.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

***Only print this e-mail if necessary.**



South Hadley Bike-Walk Committee

<http://www.southhadley.org/739/Bike-Walk-Committee>

Email: bikewalksouthhadley@gmail.com

TOTH PROPERTY TRAIL CONCEPT EXECUTIVE SUMMARY

The Bike-Walk Committee (BWC) recommends to the Selectboard that the concept of a simple, pedestrian-only footpath loop be considered for passive recreational development on the Toth Property, a 21-acre parcel of land that the Town owns. The property is located at 647 Newton Street and is situated behind Mosier Elementary School (on Mosier Street) and Newton Manor (on Newton Street). It has been determined by several sources that this town-owned land is not suitable for commercial development of any kind; therefore, it has yet to demonstrate its value as a Town resource.

The BWC believes that developing the concept of a trail system on the Toth property would change its current unusable status and provide instead an ongoing, worthwhile return on its original financial investment. A trail system would be in keeping with the Town's 2010 Master Plan and its 2016 Master Bike-Pedestrian Plan in creating and promoting recreational resources and opportunities for South Hadley that include integrated paths for walking.

BWC's initial presentation to the Selectboard on April 4, 2017 regarding possible trail development resulted in the BWC holding two community conversations on May 24th and June 21st to elicit feedback on any concerns raised by nearby neighbors, town residents and school officials. In working with Pete Westover from Conservation Works to create a proposed trail system, the BWC and Town Administration have subsequently addressed the four major concerns that were raised during these two public meetings: debris clean-up status (post-original Toth Property debris removal project), adequate buffer for residents' homes, appropriate pedestrian access/parking for cars and the impact on wildlife. A third component of BWC's outreach efforts consists of a planned public Trek and Question & Answer Session scheduled for Sunday, November 19, 2017 to walk the proposed trail loop and obtain additional comments from the neighbors, other members of the public and school officials.

The MA Division of Fisheries & Wildlife, via its Natural Heritage & Endangered Species Program, has determined that as of August 1, 2017, the Toth property location is no longer mapped as a Priority Habitat, which means that a MESA (MA Endangered Species Act) review is not required for a project on this property.

The currently proposed trail loop system is approximately 0.6 mile in length. It begins and ends at the small, crescent-shaped "turnaround" parking lot that already exists on Mosier Street, thereby entirely and deliberately avoiding the problematic Newton Manor Street egress and culvert over the western-edge wetlands pond overflow for pedestrians and vehicles. The BWC further recommends that any Toth property egress involving Newton Manor Street be appropriately and permanently closed off to the public. The proposed trail system is located well away from this wetlands area and essentially traverses through the center of the property, which creates a minimum of a 300-foot buffer between the trail and surrounding neighbors' homes. The trail also does not have an egress directly from/onto Mosier School grounds. The impact to wildlife would be further minimized by creating a pedestrian-only narrow trail maintained by seasonal mowing.

The impact to wet areas along the trail route would be diminished by the placement of four, ground-level "bog bridges"; their width will allow for the passage of maintenance equipment. It's important to note that the property contains a number of invasive plant species, e.g. Black Swallow-wort, Multi-flora Rose, Bittersweet, which left unchecked, will negatively impact the entire property by choking off natural, more nutritious vegetation for wildlife, including the Milkweed plant critical to the threatened monarch butterfly's life cycle. *[Note: The U.S. Fish & Wildlife Service department is currently assessing the monarch to determine whether it is endangered. This decision will be announced in Spring 2018.]* Creating a trail system would assist in helping to disrupt the growth paths of these unwanted invasive species.

The BWC requests that the Selectboard consider a warrant article in the amount of \$65,000. This amount is to re-appropriate a portion of the remaining \$98,000 of the original amount that was voted on by Town Meeting for the Toth Property clean-up project and subsequently returned to the General Free Cash Fund earlier this year. This \$65,000 portion would be put towards creating a final plan that would include trail design/construction/amenities (benches, signs)

plus approximately two years' worth of maintenance costs, e.g. mowing, invasive plant control, for a total period of three years.

It should be noted that approximately \$15,000 of this requested amount is slated for contingency funds. This contingency amount is designed to include, but is not limited to: trail establishment and/or maintenance beyond the capacity of the DPW, continued eradication of invasive plants to allow natural flora, e.g. Milkweed, to flourish, provision of additional stone dust to help define the small, crescent-shaped parking lot, additional professional assistance to definitively establish the trail loop system (as the first three years are critically important), vista pruning and to cover any cost overruns which may occur, e.g. possible additional signage which had not been anticipated in the plan and any other unexpected, unforeseen costs associated with establishing the new trail loop system on the property.

The BWC is excited about the concept of a trail system on the Toth Property. Not only does it embody the spirit of the State's Greenways & Trails Program, its benefits, as part of a Town-wide integrated walking path system, would be numerous and long-lasting to residents of all ages: to provide a safe, engaging place to exercise, to gain an education and appreciation of nature and the environment, to help protect its natural resources via open, responsible observation, and overall, to finally provide South Hadley citizens with access to a public resource that they have already purchased.

Respectfully submitted,

South Hadley Bike-Walk Committee
November 21, 2017

Mariann Millard
Melissa O'Brien
Nancy Bozek
Chevy
Larry Dubois
Lucia Foley
Marilyn Gass
Margaret Jodoin
Huguette Supinski

Nov. 7, 2017: BWC Members assisting Pete Westover (Conservation Works) to clear a walkable trail path for BWC's 11/19 Public Trek/Q&A Session (3rd Component of BWC's Community Conversation re: Toth Property Trail System Concept):



Nov. 7, 2017: Section of the Proposed Trail Loop System on the Toth Property:

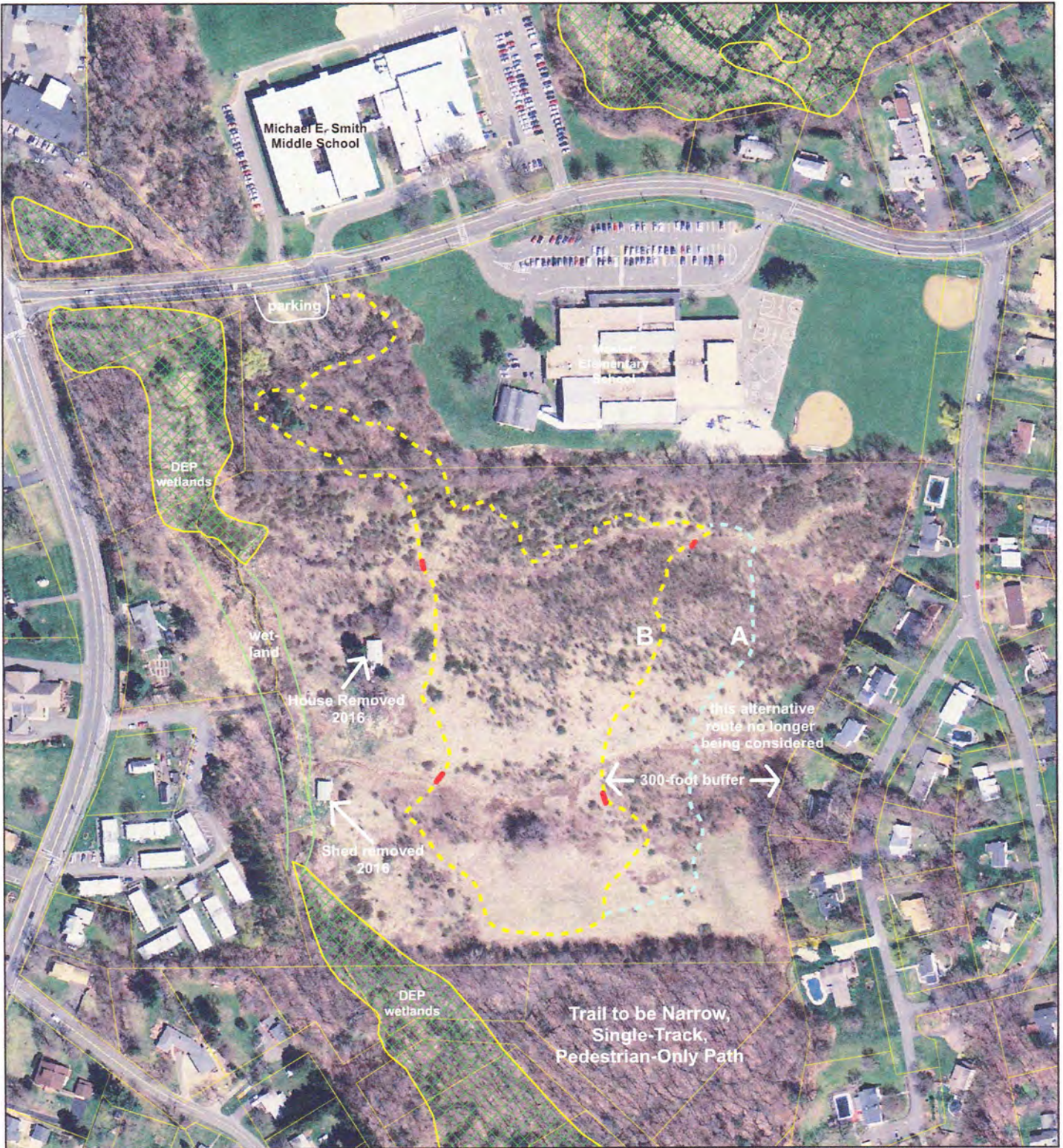


Nov. 7, 2017: BWC Member Melissa O'Brien explaining to other BWC members about the native Milkweed plant being a crucial component of the threatened monarch butterfly's life cycle:



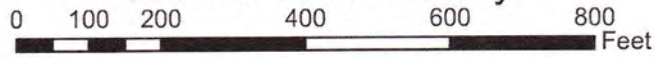
Nov. 7, 2017: Black Swallow-wort & Oriental Bittersweet Invasive Plants (non-native) found on the Toth Property:





- - - Proposed Trail "B"
- - - Route "A" No Longer Being Considered
- - - 20- to 30-foot bog bridge

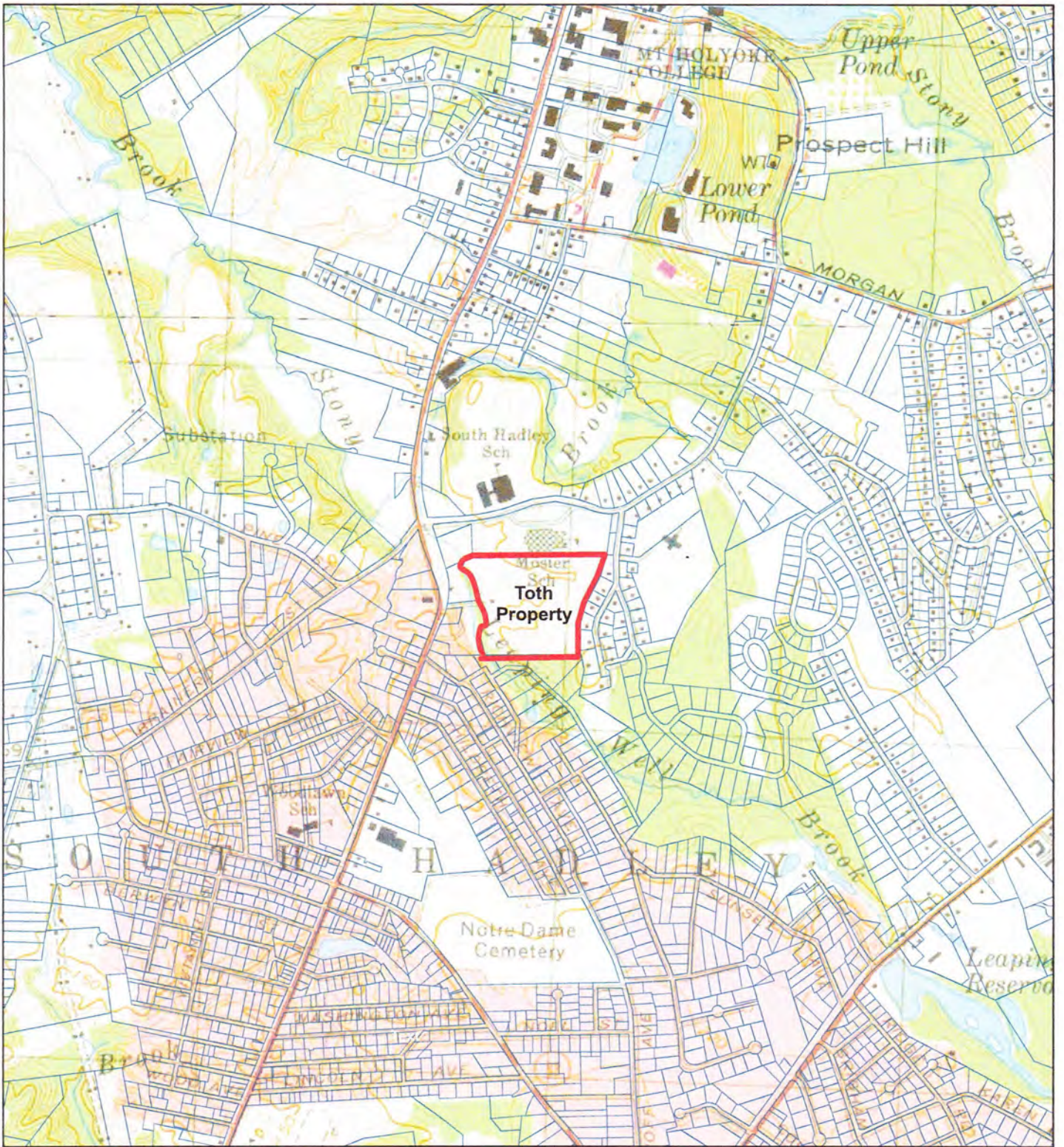
**Proposed Trail, Toth Property
Town of South Hadley**



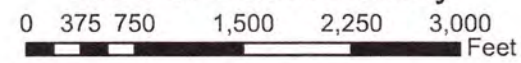
Conservation Works - November 2017

Ortho Photo from
Mass GIS 2014





Proposed Trail, Toth Property - Locus Map
 Town of South Hadley



Conservation Works - November 2017

USGS Topo from
 Mass GIS 2014



NOTE - DRAFT WORKING COPY - CANNOT CONFIRM ACCURACY

Chapter 334 of the Acts of 2016; as amended by Chapter 351 of the Acts of 2016; and as further amended by Chapter 55 of the Acts of 2017.

THE REGULATION AND TAXATION OF MARIJUANA ACT

SECTION 1. The purpose of this Act is to control the production and distribution of marijuana under a system that licenses, regulates and taxes the businesses involved in a manner similar to alcohol and to make marijuana legal for adults 21 years of age or older. Its intent is to remove the production and distribution of marijuana from the illicit market and to prevent the sale of marijuana to persons under 21 years of age by providing for a regulated and taxed distribution system. To the fullest extent possible, its terms are to be interpreted in accordance with the purpose and intent set forth in this section.

SECTION 2. This act may be known as “The Regulation and Taxation of Marijuana Act.”

SECTION 3. **Chapter 10 of the General Laws** is hereby amended by inserting after section 75 the following sections:

Section 76:

Section 76. (a) There shall be a Massachusetts cannabis control commission which shall consist of 5 commissioners: 1 of whom shall be appointed by the governor and shall have a background in public health, mental health, substance use or toxicology; 1 of whom shall be appointed by the attorney general and shall have a background in public safety; 1 of whom shall be appointed by the treasurer and receiver-general and shall have experience in corporate management, finance or securities; and 2 of whom shall be appointed by a majority vote of the governor, attorney general and treasurer and receiver-general, 1 of whom shall have professional experience in oversight or industry management, including commodities, production or distribution in a regulated industry and 1 of whom shall have a background in legal, policy or social justice issues related to a regulated industry. The treasurer and receiver-general shall designate the chair of the commission. The chair shall serve in that capacity throughout the term of appointment and until a successor shall be appointed. Prior to appointment to the commission, a background investigation shall be conducted into the financial stability, integrity and responsibility of a candidate, including the candidate’s reputation for good character, and honesty. No person who has been convicted of a felony shall be eligible to serve on the commission.

(b) Each commissioner shall be a resident of the commonwealth within 90 days of appointment and, while serving on the commission, shall not: (i) hold, or be a candidate for, federal, state or local elected office; (ii) hold an appointed office in a federal, state or local government; or (iii) serve as an official in a political party. Not more than 3 commissioners shall be from the same political party.

(c) Each commissioner shall serve for a term of 5 years or until a successor is appointed and shall be eligible for reappointment; provided, however, that no commissioner shall serve more than 10 years. A person appointed to fill a vacancy in the office of a commissioner shall be appointed in a like manner and shall serve for only the unexpired term of that commissioner.

[MJH note: Chapter 55 of Acts of 2017 amends the terms of the commissioners as follows: "SECTION 53. Notwithstanding subsections (c) and (d) of section 76 of chapter 10 of the General Laws, the initial appointments to the Massachusetts cannabis control commission by the governor and the attorney general shall serve for a term of 4 years and the initial appointments by majority vote of the treasurer and receiver-general, governor and attorney general shall serve for a term of 3 years."]

(d) The treasurer and receiver-general, the governor or the attorney general may remove a commissioner who was appointed by that appointing authority if the commissioner: (i) is guilty of malfeasance in office; (ii) substantially neglects the duties of a commissioner; (iii) is unable to discharge the powers and duties of the office; (iv) commits gross misconduct; or (v) is convicted of a felony. The treasurer and receiver-general, the governor and the attorney general may, by majority vote, remove a commissioner who was appointed by majority vote of the state treasurer, the governor and the attorney general if the commissioner: (1) is guilty of malfeasance in office; (2) substantially neglects the duties of a commissioner; (3) is unable to discharge the powers and duties of the commissioner's office; (4) commits gross misconduct; or (5) is convicted of a felony. Before removal, the commissioner shall be provided with a written statement of the reason for removal and an opportunity to be heard.

(e) Three commissioners shall constitute a quorum and the affirmative vote of 3 commissioners shall be required for an action of the commission. The chair or 3 members of the commission may call a meeting; provided, however, that notice of all meetings shall be given to each commissioner and to other persons who request such notice. The commission shall adopt regulations establishing procedures, which may include electronic communications, by which a request to receive notice shall be made and the method by which timely notice may be given.

(f) Commissioners shall receive salaries not greater than $\frac{3}{4}$ of the salary of the secretary of administration and finance under section 4 of chapter 7; provided, however, that the chair shall receive a salary equal to the salary of the secretary of administration and finance. Commissioners shall devote their full time and attention to the duties of their office.

(g) The commission shall annually elect 1 of its members to serve as secretary and 1 of its members to serve as treasurer. The secretary shall keep a record of the proceedings of the commission and shall be the custodian and keeper of the records of all books, documents and papers filed by the commission and of its minute book. The secretary shall cause copies to be made of all minutes and other records and documents of the commission and shall certify that such copies are true copies and all persons dealing with the commission may rely upon such certification.

(h) The chair shall have and exercise supervision and control over all the affairs of the commission. The chair shall preside at all hearings at which the chair is present and shall designate a commissioner to act as chair in the chair's absence. To promote efficiency in administration, the chair shall make such division or re-division of the work of the commission among the commissioners as the chair deems expedient.

(i) The commissioners shall, if so directed by the chair, participate in the hearing and decision of any matter before the commission; provided, however, that at least 2 commissioners shall participate in the hearing and decision of matters other than those of formal or administrative character coming before the commission; and provided further, that any such matter may be heard, examined and investigated by an employee of the commission designated and assigned by the chair, with the concurrence of 1 other commissioner. Such employee shall make a report in writing relative to the hearing, examination and investigation of every such matter to the commission for its decision. For the purposes of hearing, examining and investigating any such matter, such employee shall have all of the powers conferred upon a commissioner by this section. For each hearing, the concurrence of a majority of the commissioners participating in the decision shall be necessary.

(j) The commission shall appoint an executive director. The executive director shall serve at the pleasure of the commission, shall receive such salary as may be determined by the commission, and shall devote full time and attention to the duties of the office. The executive director shall be a person with skill and experience in management, shall be the executive and administrative head of the commission and shall be responsible for administering and enforcing the law relative to the

commission and to each administrative unit thereof. The executive director shall appoint and employ a chief financial and accounting officer and may, subject to the approval of the commission, employ other employees, consultants, agents and advisors, including legal counsel, and shall attend meetings of the commission. The chief financial and accounting officer of the commission shall be in charge of its funds, books of account and accounting records. No funds shall be transferred by the commission without the approval of the commission and the signatures of the chief financial and accounting officer and the treasurer of the commission. In the case of an absence or vacancy in the office of the executive director or in the case of disability as determined by the commission, the commission may designate an acting executive director to serve as executive director until the vacancy is filled or the absence or disability ceases. The acting executive director shall have all of the powers and duties of the executive director and shall have similar qualifications as the executive director.

(k) **Chapters 268A and 268B** shall apply to the commissioners and to employees of the commission; provided, however, that the commission shall establish a code of ethics for all members and employees that shall be more restrictive than said **chapters 268A and 268B**. A copy of the code shall be filed with the state ethics commission. The code shall include provisions reasonably necessary to carry out the purposes of this section and any other laws subject to the jurisdiction of the commission including, but not limited to: (i) prohibiting the receipt of gifts by commissioners and employees from any marijuana licensee, applicant, close associate, affiliate or other person or entity subject to the jurisdiction of the commission; (ii) prohibiting the participation by commissioners and employees in a particular matter as defined in **section 1 of said chapter 268A** that affects the financial interest of a relative within the third degree of consanguinity or a person with whom such commissioner or employee has a significant relationship as defined in the code; and (iii) providing for recusal of a commissioner in a licensing decision due to a potential conflict of interest.

(l) The Massachusetts cannabis control commission shall be a commission for the purposes of section 3 of chapter 12.

(m) The commission shall, for the purposes of compliance with state finance law, operate as a state agency as defined in section 1 of chapter 29 and shall be subject to the laws applicable to agencies under the control of the governor; provided, however, that the comptroller may identify any additional instructions or actions necessary for the department to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. The commission shall properly classify the commission's operating and capital expenditures, and shall not include any salaries of employees in the commission's capital expenditures. Unless otherwise exempted by law or the applicable central service agency, the commission shall participate in any other available commonwealth central services including, but not limited to, the state payroll system pursuant to section 31 of said chapter 29, and may purchase other goods and services provided by state agencies in accordance with comptroller provisions. The comptroller may chargeback the commission for the transition and ongoing costs for participation in the state accounting and payroll systems and may retain and expend such costs without further appropriation for the purposes of this section. The commission shall be subject to section 5D and subsection (f) of section 6B of said chapter 29.

Section 77: Cannabis Advisory Board

Section 77. Cannabis Advisory Board

(a) There shall be a cannabis advisory board to study and make recommendations to the Massachusetts cannabis control commission on the regulation and taxation of marijuana. The board shall consist of: the executive director of the Massachusetts cannabis control commission who shall serve as chair; the secretary of housing and economic development or a designee; the commissioner of revenue or a designee; the commissioner of public health or a designee; the commissioner of agricultural resources or a designee; the colonel of the state police or a designee; the president of the Massachusetts Municipal Association, Inc. or a designee; the president of the Massachusetts Patient Advocacy Alliance, Inc. or a designee; a registered qualifying patient appointed by the president of the Massachusetts Patient Advocacy Alliance, Inc.; the executive director of the American Civil Liberties Union of Massachusetts, Inc. or a designee; 5 persons to be appointed by the treasurer and receiver-general, 1 of whom shall be an expert in marijuana cultivation, 1 of whom shall be an expert in marijuana retailing, 1 of whom shall be an

expert in marijuana product manufacturing, 1 of whom shall be an expert in laboratory sciences and toxicology and 1 of whom shall be an expert in providing legal services to marijuana businesses; 5 persons to be appointed by the governor, 1 of whom shall be an expert in minority business development, 1 of whom shall be an expert in economic development strategies for under-resourced communities, 1 of whom shall be an expert in farming or representing the interests of farmers, 1 of whom shall be an expert representing the interests of employers and 1 of whom shall be an expert in municipal law enforcement with advanced training in impairment detection and evaluation; and 5 persons to be appointed by the attorney general, 1 of whom shall be an expert in social welfare or social justice, 1 of whom shall be an expert in criminal justice reform to mitigate the disproportionate impact of drug prosecutions on communities of color, 1 of whom shall be an expert in minority business ownership, 1 of whom shall be an expert in women-owned business ownership and 1 of whom shall be an expert in the prevention and treatment of substance use disorders. Members of the board shall serve for terms of 2 years. Members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. Members of the board shall not be state employees under chapter 268A by virtue of their service on the board. To take action at a meeting, a majority of the members of the board present and voting shall constitute a quorum.

(b) The cannabis advisory board shall: (i) consider all matters submitted to it by the commission; (ii) on its own initiative, recommend to the commission guidelines, rules and regulations and any changes to guidelines, rules and regulations that the advisory board considers important or necessary for the commission's review and consideration; and (iii) advise on the preparation of regulations pursuant to chapter 94G and 94I.

(c) The chair may appoint subcommittees in order to expedite the work of the board; provided, however, that the chair shall appoint: (i) a subcommittee on public health to develop recommendations on products, labelling, marketing, advertising, related public health issues, potency, which may include a recommended maximum limit for individual servings of marijuana products, and packaging, which may include the development and implementation of a public health warning to appear on marijuana products; (ii) a subcommittee on public safety and community mitigation to develop recommendations on law enforcement, property, business and consumer issues; (iii) a subcommittee on the cannabis industry to develop recommendations on cultivation, processing, manufacturing, transportation, distribution, seed-to-sale tracking and market stability; and (iv) a subcommittee on market participation to develop recommendations on women, minority and veteran-owned businesses, local agriculture and growing cooperatives.

SECTION 4. The General Laws are hereby amended by inserting after chapter 64M the following chapter:

CHAPTER 64N

Section 1: Definitions

Section 1. Definitions. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

- (a) "Commissioner", the commissioner of revenue.
- (b) "Marijuana," "Marijuana establishment," "Marijuana product" and "Marijuana retailer", as defined in chapter 94G of the General Laws.

Section 2: State excise imposition; rate; payment

Section 2. State excise imposition; rate; payment. An excise tax is hereby imposed upon the sale of marijuana or marijuana products by a marijuana retailer to anyone other than a marijuana establishment at a rate of 10.75 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. The excise tax shall be levied in addition to state tax imposed upon the sale of property or services as provided in section 2 of chapter 64H of the General Laws and shall be paid by a marijuana retailer to the commissioner at the time provided for filing the return required by section 16 of chapter 62C of the General Laws.

Section 3

Section 3. (a) A city or town that accepts this section in the manner provided in section 4 of chapter 4 may impose a local sales tax upon sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town to anyone other than a marijuana establishment at a rate not greater than 3 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. The marijuana retailer shall pay the local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.

(b) All sums received by the commissioner under this section shall, at least quarterly, be distributed, credited and paid by the treasurer and receiver-general upon certification of the commissioner to each city or town that has accepted this section in proportion to the amount of the sums received in that city or town. Any city or town seeking to dispute the commissioner's calculation of its distribution under this subsection shall notify the commissioner, in writing, not later than 1 year from the date the tax was distributed by the commissioner to the city or town.

(c) This section shall take effect in a city or town on the first day of the calendar quarter following 30 days after its acceptance by the city or town or on the first day of a later calendar quarter that the city or town may designate.

Section 4: Exemptions

Section 4. Exemptions. This chapter shall not apply to the sale of marijuana or marijuana products by a medical marijuana treatment center or a registered personal caregiver to a qualifying patient or personal caregiver pursuant to 94I, nor to any unlawful sale subject to taxation pursuant to chapter 64K of the General Laws.

Section 5: Application of tax revenue

Section 5. Application of tax revenue. The commissioner shall deposit revenue collected pursuant to this chapter, other than revenue collected pursuant to section 2 of chapter 64H of the General Laws, in the Marijuana Regulation Fund established by chapter 94G of the General Laws and it shall be subject to appropriation.

SECTION 5. The General Laws are hereby amended by inserting after **chapter 94F** the following chapter:

Chapter 94G: REGULATION OF THE USE AND DISTRIBUTION OF MARIJUANA NOT MEDICALLY PRESCRIBED

Section 1: Definitions

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Cannabinoid”, any of several compounds produced by marijuana plants that have medical and psychotropic effects.

“Cannabinoid profile”, amounts, expressed as the dry-weight percentages, of delta-nine-tetrahydrocannabinol, cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a marijuana product. Amounts of other cannabinoids may be required by the commission.

“Close associate”, a person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a marijuana establishment licensed under this chapter.

“Consumer”, a person who is at least 21 years of age.

“Controlling person”, an officer, board member or other individual who has a financial or voting interest of 10 per cent or greater in a marijuana establishment.

“Commission”, the Massachusetts cannabis control commission established by section 76 of chapter 10.

“Craft marijuana cultivator cooperative”, a marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments but not to consumers.

“Cultivation batch”, a collection of marijuana plants from the same seed or plant stock that are cultivated and harvested together, and receive an identical propagation and cultivation treatment, including, but not limited to: growing media, ambient conditions, watering and light regimes and agricultural or hydroponic inputs. The marijuana licensee shall assign and record a unique, sequential alphanumeric identifier to each cultivation batch for the purposes of production tracking, product labeling and product recalls.

“Experienced marijuana establishment operator”, (i) a medical marijuana treatment center 94I with a registration in good standing, or (ii) a reorganized marijuana business established by a vote of at least 2/3 of the board of directors of an entity that submitted an application for a registration to operate a medical marijuana treatment center to the department of public health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the department of public health before the effective date of this chapter.

“Finished marijuana”, usable marijuana, cannabis resin or cannabis concentrate.

“Hemp”, the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

“Host community”, a municipality in which a marijuana establishment or a medical marijuana treatment center is located or in which an applicant has proposed locating a marijuana establishment or a medical marijuana treatment center.

“Independent testing laboratory”, a laboratory that is licensed by the commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the commission pursuant to this chapter.

“Laboratory agent”, an employee of an independent testing laboratory who transports, possesses or tests marijuana.

“Licensee”, a person or entity licensed by the commission to operate a marijuana establishment under this chapter.

“Manufacture”, to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

“Marijuana” or “Marihuana”, all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or

preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "marijuana" shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

"Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"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.

"Marijuana establishment", a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

"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 not to consumers.

"Marijuana products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

"Marijuana retailer", 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.

"Mycotoxin", a secondary metabolite of a microfungus that is capable of causing death or illness in humans and other animals. For the purposes of this chapter, mycotoxin shall include alfatoxin B1, alfatoxin B2, alfatoxin G1, alfatoxin G2 and ochratoxin A.

"Process" or "processing", to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in this section.

"Production batch", a batch of finished plant material, cannabis resin, cannabis concentrate or marijuana-infused product made at the same time, using the same methods, equipment and ingredients. The licensee shall assign and record a unique, sequential alphanumeric identifier to each production batch for the purposes of production tracking, product labeling and product recalls. All production batches shall be traceable to 1 or more marijuana cultivation batches.

"Residual solvent", a volatile organic chemical used in the manufacture of a marijuana product and that is not completely removed by practical manufacturing techniques.

"Terpenoid", an isoprene that are the aromatic compounds found in cannabis, including, but not limited to: limonene, myrcene, pinene, linalool, eucalyptol, δ -terpinene, β -caryophyllene, caryophyllene oxide, nerolidol and phytol.

"Unreasonably impracticable", that the measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this chapter subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.

Section 2: Limitations

Section 2. Limitations

(a) Operating under the influence. This chapter does not amend existing penalties for operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery while impaired by marijuana or a marijuana product or for consuming marijuana while operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery.

(b) Transfer to or possession by a person under 21 years of age. This chapter shall not be construed to permit the knowing transfer of marijuana, marijuana products or marijuana accessories, with or without remuneration, to a person under 21 years of age or to allow a person under 21 years of age to possess, use, purchase, obtain, cultivate, process, manufacture, deliver or sell or otherwise transfer marijuana or marijuana accessories.

(c) Manufacture of products. Unless done pursuant to a marijuana product manufacturer license issued by the commission, this chapter does not authorize a person to manufacture marijuana or hemp by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(d) Property. This chapter shall not be construed to:

(1) prevent a person from prohibiting or otherwise regulating the consumption, display, production, processing, manufacture or sale of marijuana and marijuana accessories on or in property the person owns, occupies or manages, except that a lease agreement shall not prohibit a tenant from consuming marijuana by means other than smoking on or in property in which the tenant resides unless failing to do so would cause the landlord to violate a federal law or regulation;

(2) prevent the commonwealth, a subdivision thereof or local government agency from prohibiting or otherwise regulating the possession or consumption of marijuana or marijuana accessories within a building owned, leased or occupied by the commonwealth, a political subdivision of the commonwealth or an agency of the commonwealth or a political subdivision of the commonwealth; or

(3) authorize the possession or consumption of marijuana or marijuana accessories on the grounds of or within a public or private school where children attend classes in preschool programs, kindergarten programs or grades 1 to 12, inclusive, on a school bus, in any youth center, or on the grounds of or within any correctional facility or detoxification facility.

(e) Employment. This chapter shall not require an employer to permit or accommodate conduct otherwise allowed by this chapter in the workplace and shall not affect the authority of employers to enact and enforce workplace policies restricting the consumption of marijuana by employees.

(f) Negligent conduct. This chapter shall not amend existing penalties for conduct involving the performance of any task while impaired by marijuana that would constitute negligence or professional malpractice and shall not prevent the imposition of any civil, criminal or other penalty for such conduct.

(g) Relation to medical use of marijuana. This chapter shall not be construed to affect the provisions of 94I, relating to the medical use of marijuana as enacted by the people in the state election in 2012 except where otherwise provided for in this chapter.

(h) Adulteration and misbranding. This chapter shall not exempt marijuana or marijuana products from sections 186 to 195, inclusive, of chapter 94 of the General Laws, relating to the adulteration and misbranding of food, drugs and various articles. Marijuana included in a marijuana product manufactured in compliance with the regulations under this chapter shall not be considered an adulterant.

Section 3: Local control

Section 3. Local control

(a) A city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter and that:

(1) govern the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories, except that zoning ordinances or by-laws shall not operate to: (i) prevent the conversion of a medical marijuana treatment center licensed or registered not later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment engaged in the same type of activity under this chapter; or (ii) limit the number

of marijuana establishments below the limits established pursuant to clause (2);

(2) limit the number of marijuana establishments in the city or town; provided, however, that in the case of a city or town in which the majority of voters voted in the affirmative for question 4 on the 2016 state election ballot, entitled "Legalization, Regulation, and Taxation of Marijuana", and after December 31, 2019 in the case of any other city or town, the city or town shall submit any by-law or ordinance for approval to the voters pursuant to the procedure in subsection (e) before adopting the by-law or ordinance if it would:

- (i) prohibit the operation of 1 or more types of marijuana establishments within the city or town;
- (ii) limit the number of marijuana retailers to fewer than 20 per cent of the number of licenses issued within the city or town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under section 15 of chapter 138; or
- (iii) limit the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the city or town;

(3) restrict the licensed cultivation, processing and manufacturing of marijuana that is a public nuisance;

(4) establish reasonable restrictions on public signs related to marijuana establishments provided, however, that if a city or town enacts an ordinance or by-law above the commission's standard, that local ordinance or by-law shall not impose a standard for signage more restrictive than those applicable to retail establishments that sell alcoholic beverages within that city or town; and

(5) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this subsection, similar to a penalty imposed for violation of an ordinance or by-law relating to alcoholic beverages.

(b) The city council of a city and the board of selectmen of a town shall, upon the filing with the city or town clerk of a petition (i) signed by not fewer than 10 per cent of the number of voters of such city or town voting at the state election preceding the filing of the petition and (ii) conforming to the provisions of the General Laws relating to initiative petitions at the municipal level, request that the question of whether to allow, in such city or town, the sale of marijuana and marijuana products for consumption on the premises where sold be submitted to the voters of such city or town at the next biennial state election. If a majority of the votes cast in the city or town are not in favor of allowing the consumption of marijuana or marijuana products on the premises where sold, such city or town shall be taken to have not authorized the consumption of marijuana and marijuana products on the premises where sold.

(c) No city or town shall prohibit the transportation of marijuana or marijuana products or adopt an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable.

(d) A marijuana establishment or a medical marijuana treatment center seeking to operate or continue to operate in a municipality which permits such operation shall execute an agreement with the host community setting forth the conditions to have a marijuana establishment or medical marijuana treatment center located within the host community which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment or a medical marijuana treatment center. An agreement between a marijuana establishment or a medical marijuana treatment center and a host community may include a community impact fee for the host community; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment or medical marijuana treatment center and shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or medical marijuana treatment center or be effective for longer than 5 years. Any cost to a city or town imposed by the operation of a marijuana establishment or medical marijuana treatment center shall be documented and considered a public record as defined by clause Twenty-sixth of section 7 of chapter 4.

(e) If an ordinance or by-law shall be submitted for approval pursuant to clause (2) of subsection (a), the following procedures shall be followed:

(1) The city solicitor or town counsel shall prepare a fair and concise summary of the proposed ordinance or by-law which shall make clear the number and types of marijuana establishments which shall be permitted to operate under the proposed

ordinance and by-law and shall be included on the ballot.

(2) A ballot shall be prepared asking “Shall this [city or town] adopt the following [by-law or ordinance]? [solicitor/counsel summary] [full text of by-law or ordinance]”

(3) If the majority of the votes cast in answer to the question are in the affirmative, the city or town may adopt the by-law or ordinance, but if the majority of votes cast is in the negative, the city or town shall not adopt the by-law or ordinance.

A ballot question under this subsection may be placed on the ballot at a regular or special election held by the city or town by a vote of the board of selectmen or by the city or town council, with the approval of the mayor or chief executive officer of a city that does not have a mayor, and subject to a municipal charter, if applicable.

Section 4: The Cannabis Control Commission

Section 4. The Cannabis Control Commission

- (a) The commission shall have all the powers necessary or convenient to carry out and effectuate its purposes including, but not limited to, the power to:
- (i) appoint officers and hire employees;
 - (ii) establish and amend a plan of organization that it considers expedient;
 - (iii) execute all instruments necessary or convenient for accomplishing the purposes of this chapter;
 - (iv) enter into agreements or other transactions with a person, including, but not limited to, a public entity or other governmental instrumentality or authority in connection with its powers and duties under this chapter;
 - (v) appear on its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;
 - (vi) apply for and accept subventions, grants, loans, advances and contributions of money, property, labor or other things of value from any source, to be held, used and applied for its purposes;
 - (vii) provide and pay for advisory services and technical assistance as may be necessary in its judgment to carry out this chapter and fix the compensation of persons providing such services or assistance;
 - (viii) prepare, publish and distribute, with or without charge as the commission may determine, such studies, reports, bulletins and other materials as the commission considers appropriate;
 - (ix) require an applicant for licensure under this chapter to apply for such licensure and approve or disapprove any such application or other transactions, events and processes as provided in this chapter;
 - (x) determine which applicants shall be awarded licenses;
 - (xi) deny an application or limit, condition, restrict, revoke or suspend a license;
 - (xii) establish a registration process, based on finding of suitability or approval of licensure;
 - (xiii) fine a person licensed, registered, found suitable or approved for licensure, for any cause that the commission deems reasonable;
 - (xiv) gather facts and information applicable to the commission’s obligation to issue, suspend or revoke licenses, registrations, finding of suitability or approval of licensure for: (A) a violation of this chapter or any regulation adopted by the commission; (B) willfully violating an order of the commission directed to a licensee or a person required to be registered; (C) the conviction of a criminal offense; or (D) any other offense which would disqualify such a licensee from holding a license;
 - (xv) conduct investigations into the qualifications of all applicants for employment by the commission and all applicants for licensure;
 - (xvi) receive from the state police, the department of criminal justice information services or other criminal justice agencies including, but not limited to, the Federal Bureau of Investigation and the Internal Revenue Service, such criminal offender record information relating to criminal and background investigations as necessary for the purpose of evaluating licensees, applicants for license, and lab agents as provided in section 21;
 - (xvii) be present, through its inspectors and agents, at any time, in marijuana establishments for the purposes of exercising its oversight responsibilities;
 - (xviii) inspect and have access to all equipment and supplies in a marijuana establishment;
 - (xix) seize and remove from the premises of a marijuana establishment and impound any marijuana, equipment, supplies, documents and records obtained or possessed in violation of this chapter for the purpose of examination and inspection;
 - (xx) for cause, demand access to and inspect all papers, books and records of close associates of a licensee whom the commission suspects is involved in the financing, operation or management of the licensee; provided, however, that the inspection, examination, photocopying and audit may take place on the affiliate’s premises or elsewhere as practicable and in

the presence of the affiliate or its agent;

(xxi) require that the books and financial or other records or statements of a licensee be kept in a manner that the commission considers proper;

(xxii) impose fees and fines, as authorized by this chapter and penalties and sanctions for a violation of this chapter or any regulations promulgated by the commission;

(xxiii) collect fees under this chapter;

(xxiv) conduct adjudicatory proceedings and promulgate regulations in accordance with chapter 30A;

(xxv) refer cases for criminal prosecution to the appropriate federal, state or local authorities;

(xxvi) maintain an official internet website for the commission;

(xxvii) monitor any federal activity regarding marijuana; and

(xxviii) adopt, amend or repeal regulations for the implementation, administration and enforcement of this chapter.

(a ½) The commission shall, in accordance with chapter 30A, adopt regulations consistent with this chapter for the administration, clarification and enforcement of laws regulating and licensing marijuana establishments. The regulations shall include:

(i) methods and forms of application which an applicant for a license shall follow and complete before consideration by the commission;

(ii) a schedule of application, license and renewal fees in an amount necessary to pay for all regulation and enforcement costs of the commission; provided, however, that fees may be relative to the volume of business conducted or to be conducted by the marijuana establishment;

(iii) qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of a marijuana establishment and similar to qualifications for licensure and employment standards in connection with alcoholic beverages as regulated under chapter 138; provided, that a prior conviction solely for a marijuana-related offense or for a violation of section 34 of chapter 94C shall not disqualify an individual or otherwise affect eligibility for employment or licensure in connection with a marijuana establishment, unless the offense involved the distribution of a controlled substance, including marijuana, to a minor;

(iv) procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities;

(v) standards for the licensure of marijuana establishments, including, but not limited to updating that licensure;

(vi) standards for the reporting or payment of licensure fees or taxes;

(vii) requirements for the information to be furnished by an applicant or licensee;

(viii) criteria for evaluation of the application for a license;

(ix) requirements for the information to be furnished by a licensee relating to the licensee's employees;

(x) requirements for fingerprinting or other method of identification of an applicant for a license or a licensee;

(xi) procedures and grounds for the revocation or suspension of a license or registration;

(xii) minimum uniform standards of accounting procedures;

(xiii) requirements for record keeping by marijuana establishments and procedures to track marijuana cultivated, processed, manufactured, delivered or sold by marijuana establishments;

(xiv) any necessary registration requirements for employees working at the marijuana establishment;

(xv) requirements that all marijuana establishment employees be properly trained in their respective professions as necessary;

(xvi) procedures for the interim authorization of a marijuana establishment under this chapter;

(xvii) minimum standards for the requirement that all licensees possess and operate an interoperable publicly available application programming interface seed-to-sale tracking system sufficient to ensure the appropriate track and trace of all marijuana cultivated, processed or manufactured pursuant to this chapter;

(xviii) minimum security requirements for licensees sufficient to deter and prevent theft and unauthorized entrance into areas containing marijuana, which shall include but not be limited to the use of security cameras, provided that the requirements shall not prohibit the cultivation of marijuana outdoors or in greenhouses;

(xix) minimum standards for liability insurance coverage or requirements that a certain sum be placed in escrow to be expended for coverage liabilities;

(xx) requirements and standards sufficient to ensure for the virtual separation of marijuana cultivated, processed, manufactured, delivered or sold by a licensee that is also licensed as a medical marijuana treatment center pursuant to 94I. Such

requirements shall leverage seed-to-sale tracking technology and may allow for the appropriate transfer or acquisition of marijuana seeds, clones, cuttings, plants or plant tissue between such entities;

(xxi) requirements and procedures to prevent the sale, delivery or transfer of marijuana to persons under 21 years of age, or the purchase of marijuana on behalf of a person under 21 years of age, including a prohibition on persons under 21 entering marijuana establishments;

(xxii) standards for manufacturing or extracting cannabinoid oils or butane hash oil;

(xxiii) health and safety standards, established in consultation with the department of public health and the department of agricultural resources, for the cultivation, processing, manufacturing and distribution of marijuana, including standards regarding sanitation for the preparation, storage, handling and sale of food products, including compliance with state sanitation requirements set forth in 105 CMR 500.000, and health inspections; provided, however, that the authority to promulgate regulations pertaining to the use of pesticides shall remain with the department of agricultural resources;

(xxiv) requirements for the packaging of marijuana and marijuana products that shall, at a minimum: (1) require the most current consumer product safety commission standards, set forth in 16 C.F.R. 1700 et seq.; (2) protect children from accidentally ingesting marijuana or marijuana products, including by making packaging certified child-resistant and resealable; (3) require the division of each serving within a package containing multiple servings in a manner that allows consumers and card holders to easily identify a single serving; (4) prohibit the use of bright colors, cartoon characters and other features designed to appeal to minors; (5) ensure that packaging is opaque or plain in design; (6) limit each serving size to no greater than 10 milligrams of delta-nine-tetrahydrocannabinol (Δ 9-THC); and (7) prohibit any packaging that imitates or has a semblance to any existing branded consumer products, including foods and beverages, that do not contain marijuana;

(xxv) requirements for the potency or dosing limitations of edible marijuana products sold by licensees;

(xxvi) requirements for the labeling of a package containing marijuana or marijuana products that shall, at a minimum, include: (1) a symbol or easily recognizable mark issued by the commission that indicates the package contains marijuana or a marijuana product; (2) a symbol or other easily recognizable mark issued by the commission on the package indicating to children that the product is harmful to children; (3) the name and contact information of the marijuana cultivator or the marijuana product manufacturer who produced the marijuana or marijuana product; (4) the results of sampling, testing and analysis conducted by a licensed independent testing laboratory; (5) a seal certifying the marijuana meets such testing standards; (6) a unique batch number identifying the production batch associated with manufacturing, processing, and cultivating; (7) a list of ingredients and possible allergens; (8) the amount of delta-nine-tetrahydrocannabinol (Δ 9-THC) in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume; (9) the number of servings in a package if there are multiple servings; (10) a use-by date, if applicable; and (11) the following statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";

(xxvii) procedures and policies, in cooperation with the department of agricultural resources, to promote and encourage full participation in the regulated marijuana industry by farmers and businesses of all sizes, which shall include creating a schedule of cultivator license fees commensurate with cultivation size and regulations to create a craft marijuana cultivator cooperative system including, but not limited to, the following: (1) a limitation on ownership interests in a marijuana cultivator cooperative; (2) a limit on the total marijuana produced by a craft marijuana cultivator by the number of plants, surface area used for cultivation or output by weight; and (3) a reasonable fee for licensure as a craft marijuana cultivator cooperative;

(xxviii) requirements for the safe disposal of excess, contaminated, adulterated or deteriorated marijuana, which shall consider policies which promote the recycling of such waste, including, but not limited to, recycled industrial products;

(xxix) requirements for advertising, marketing and branding of marijuana and marijuana products that shall, at a minimum, include: (1) a prohibition on advertising, marketing and branding in such a manner that is deemed to be deceptive, false or misleading; (2) a prohibition on advertising, marketing and branding by means of television, radio, internet, billboard or print publication unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data; (3) a prohibition on advertising, marketing and branding that utilizes statements, designs, representations, pictures or illustrations that portray anyone less than 21 years of age; (4) a prohibition on advertising, marketing and branding including, but not limited to, mascots, cartoons, brand sponsorships and celebrity endorsements, that is deemed to appeal to a person less than 21 years of age; (5) a prohibition on advertising, marketing and branding, including statements by a licensee, that makes any false or misleading statements concerning other licensees and the conduct and products of such other licensees; (6) a prohibition on advertising, marketing and branding through certain identified promotional items as determined by the commission, including giveaways, coupons or "free" or "donated" marijuana; (7) a

prohibition on advertising, marketing and branding by a licensee that asserts its products are safe, other than labeling required pursuant to this chapter; (8) a reasonable prohibition on timing and use of illuminated external signage, which shall comply with all local ordinances and requirements, and a prohibition on neon signage; (9) a prohibition of the use of vehicles equipped with radio or loud speakers for the advertising of marijuana; (10) a prohibition on the use of radio or loud speaker equipment in any marijuana establishment for the purpose of attracting attention to the sale of marijuana; (11) an allowance that a licensee may sponsor a charitable, sporting or similar event, but a prohibition of advertising, marketing and branding at, or in connection with, such an event unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data; (12) a requirement that the website of a marijuana establishment shall verify that the entrant is at least 21 years of age; (13) a prohibition on the use of unsolicited pop-up advertisements on the internet; and (14) a requirement that all advertising, marketing or branding materials for marijuana and marijuana products contain a standard health warning developed by the department of public health;

(xxx) procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person or to another suitable location with notification and approval by the commission;

(xxxi) requirements to establish a process allowing the commission to order a prohibition on the sale of a marijuana product found especially appealing to persons under 21;

(xxxii) requirements to establish a process allowing a marijuana product manufacturer to voluntarily submit a product, its packaging and intended marketing to the commission for review of whether the product is especially appealing to persons under 21;

(xxxiii) requirements that prohibit marijuana product manufacturers from altering or utilizing commercially-manufactured food products when manufacturing marijuana products unless the food product was commercially manufactured specifically for use by the marijuana product manufacturer to infuse with marijuana; provided, however, that a commercially-manufactured food product may be used as an ingredient in a marijuana product if: (i) it is used in a way that renders it unrecognizable as the commercial food product in the marijuana product; and (ii) there is no statement or advertisement indicating that the marijuana product contains the commercially-manufactured food product; and

(xxxiv) energy and environmental standards for licensure and licensure renewal of marijuana establishments licensed as a marijuana cultivator or marijuana product manufacturer.

(b) In furtherance of the intent of this act, the commission may also adopt regulations in accordance with chapter 30A of the General Laws which:

(1) establish and provide for issuance of additional types or classes of licenses to operate marijuana-related businesses, including licenses that authorize only limited cultivation, processing, manufacture, possession or storage of marijuana or marijuana products, limited delivery of marijuana or marijuana products to consumers, licenses that authorize the consumption of marijuana or marijuana products on the premises where sold, licenses that authorize the consumption of marijuana at special events in limited areas and for a limited time and licenses intended to facilitate scientific research or education;

(c) Regulations made pursuant to this section shall not:

(1) prohibit the operation of a marijuana establishment either expressly or through regulations that make operation of a marijuana establishment unreasonably impracticable;

(3) require a customer to provide a marijuana retailer with identifying information other than identification to determine the customer's age and shall not require the marijuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction;

- (4) prohibit a medical marijuana treatment center and an experienced marijuana establishment operator from operating a medical marijuana treatment center and a marijuana establishment at a shared location;
- (5) prohibit marijuana establishments from transferring or acquiring marijuana seeds, clones, cuttings, plants or plant tissue from other marijuana establishments or from medical marijuana treatment centers or prohibit a marijuana establishment from transferring or otherwise selling marijuana to a marijuana retailer, a marijuana product manufacturer or a marijuana cultivator; or
- (6) prohibit marijuana establishments from using inorganic cultivation methods.
- (d) The commission shall administer the laws and regulations relating to licensing in this chapter.
- (e) Each fiscal year the commission shall submit an annual finance plan to the secretary of administration and finance, and updates to such plan, in accordance with instructions issued by said secretary.
- (f) The commission shall investigate, in conjunction with the department of public health, the effects of marijuana and marijuana products with a high potency of tetrahydrocannabinol on the human body and recommend whether there should be restrictions on the potency of tetrahydrocannabinol in marijuana and marijuana products.
- (g) The commission shall hold a public hearing before the adoption, amendment or repeal of any regulation. Adjudicatory proceedings shall be conducted pursuant to chapter 30A of the General Laws and to standard rules of adjudicatory procedure established pursuant to section 9 of chapter 30A of the General Laws.
- (h) The commission shall annually submit a complete and detailed report of the commission's activities, including a review of the implementation and enforcement of this chapter and the governance structure established in this chapter, not more than 90 days after the end of the fiscal year to the governor, the attorney general, the treasurer and receiver-general, the clerks of the house of representatives and the senate, the chairs of the joint committee on marijuana policy and the chairs of the house and senate committees on ways and means.
- (i) The commission shall annually review the tax rate established by chapter 64N and may make recommendations to the general court, as appropriate, regarding any changes to the tax rate that further the intent of this chapter. The commission may study marijuana commerce and make recommendations to the general court regarding changes in the laws that further the intent of this chapter by filing those recommendations with the clerks of the house of representatives and the senate who shall forward the recommendations to the joint committee on marijuana policy, the joint committee on consumer protection and professional licensure, the joint committee on revenue, the joint committee on mental health, substance use and recovery, the joint committee on public health and any other committee deemed appropriate by the commission.
- (j) The commission shall deposit all license, registration and monetary penalties collected pursuant to this chapter in the Marijuana Regulation Fund established by section 14 of this chapter.
- (k) The commission and the department of public health shall work collaboratively to ensure that the production and distribution of marijuana is effectively regulated in the commonwealth in furtherance of the intent of this act.
- (l) The commission shall promulgate advisory guidelines and best practices on the cultivating of marijuana within a person's primary residence.

Section 5: Licensing of marijuana establishments

Section 5. Licensing of marijuana establishments

(a) Upon receipt of a complete marijuana establishment license application and the application fee, the commission shall forward a copy of the application to the city or town in which the marijuana establishment is to be located, determine whether the applicant and the premises qualify for the license and has complied with this chapter and shall, within 90 days:

(1) issue the appropriate license; or

(2) send to the applicant a notice of rejection setting forth specific reasons why the commission did not approve the license application.

(b) The commission shall approve a marijuana establishment license application and issue a license if:

(1) the prospective marijuana establishment has submitted an application in compliance with regulations made by the commission, the applicant satisfies the requirements established by the commission, the applicant is in compliance with this chapter and the regulations made by the commission and the applicant has paid the required fee;

(2) the commission is not notified by the city or town in which the proposed marijuana establishment will be located that the proposed marijuana establishment is not in compliance with an ordinance or by-law consistent with section 3 of this chapter and in effect at the time of application;

(3) the property where the proposed marijuana establishment is to be located, at the time the license application is received by the commission, is not located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a city or town adopts an ordinance or by-law that reduces the distance requirement; and

(4) an individual who will be a controlling person of the proposed marijuana establishment has not been convicted of a felony or convicted of an offense in another state that would be a felony in the commonwealth, except a prior conviction solely for a marijuana offense or solely for a violation of section 34 of chapter 94C of the General Laws, unless the offense involved distribution of a controlled substance, including marijuana, to a minor.

Section 6: Expiration and renewal

Section 6. Expiration and renewal

(a) License term. Unless the commission authorizes the renewal of a license for a longer period, all licenses under this chapter shall be effective for 1 year from the date of issuance.

(b) Renewal. The commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee from a marijuana establishment to licensees in good standing and who have filed any tax returns required pursuant to chapter 64N of the General Laws.

Section 7: Personal use of marijuana

Section 7. Personal use of marijuana

(a) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for:

(1) possessing, using, purchasing, processing or manufacturing 1 ounce or less of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate;

(2) within the person's primary residence, possessing up to 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and possessing, cultivating or processing not more than 6 marijuana plants for personal use so long as not more than 12 plants are cultivated on the premises at once;

(3) assisting another person who is 21 years of age or older in any of the acts described in this section; or

(4) giving away or otherwise transferring without remuneration up to 1 ounce of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

(b) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, if the import or export of marijuana to or from the commonwealth is not prohibited by federal law, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for possessing, using, purchasing, cultivating, processing or manufacturing any amount of marijuana or marijuana products for personal use.

(c) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, a person shall not be arrested, prosecuted, penalized, sanctioned or otherwise denied any benefit and shall not be subject to seizure or forfeiture of assets for allowing property the person owns, occupies or manages to be used for any of the activities conducted lawfully under this chapter or for enrolling or employing a person who engages in marijuana-related activities lawfully under this chapter.

(d) Absent clear, convincing and articulable evidence that the person's actions related to marijuana have created an unreasonable danger to the safety of a minor child, neither the presence of cannabinoid components or metabolites in a person's bodily fluids nor conduct permitted under this chapter related to the possession, consumption, transfer, cultivation, manufacture or sale of marijuana, marijuana products or marijuana accessories by a person charged with the well-being of a child shall form the sole or primary basis for substantiation, service plans, removal or termination or for denial of custody, visitation or any other parental right or responsibility.

(e) The use of marijuana shall not disqualify a person from any needed medical procedure or treatment, including organ and tissue transplants.

(f) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified and is not subject to seizure or forfeiture of assets for possessing, producing, processing, manufacturing, purchasing, obtaining, selling or otherwise transferring or delivering hemp.

(g) For the purposes of this section, "marijuana concentrate" shall mean the resin extracted from any part of the plant of the genus Cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin but shall not include the weight of any other ingredient combined with marijuana to prepare marijuana products.

Section 8: Marijuana accessories authorized

Section 8. Marijuana accessories authorized

Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified and shall not be subject to seizure or forfeiture of assets for possessing, purchasing or otherwise obtaining or manufacturing marijuana accessories or for selling or otherwise transferring marijuana accessories to a person who is 21 years of age or older.

Section 9: Lawful operation of marijuana establishments

Section 9. Lawful operation of marijuana establishments

(a) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, the following people involved in the distribution of marijuana as authorized by this chapter shall not be arrested, prosecuted, penalized, sanctioned or disqualified and shall not be subject to seizure or forfeiture of assets for activities specified for:

(1) a marijuana retailer or an owner, operator, employee or other agent acting on behalf of a marijuana retailer possessing or testing marijuana or marijuana products; purchasing, selling or otherwise transferring or delivering marijuana or marijuana

products to or from a marijuana establishment; or selling or otherwise transferring or delivering marijuana or marijuana products to a consumer;

(2) a marijuana cultivator or an owner, operator, employee or other agent acting on behalf of a marijuana cultivator cultivating, propagating, breeding, harvesting, processing, packaging, testing, storing or possessing marijuana or marijuana products, or selling or otherwise transferring, purchasing or delivering marijuana and marijuana products to or from a marijuana establishment;

(3) a marijuana product manufacturer or an owner, operator, employee or other agent acting on behalf of a marijuana product manufacturer packaging, processing, manufacturing, storing, testing or possessing marijuana or marijuana products, or delivering, selling or otherwise transferring and purchasing marijuana or marijuana products to or from a marijuana establishment; or

(4) a marijuana testing facility or an owner, operator, employee or other agent acting on behalf of a marijuana testing facility possessing, processing, storing, transferring or testing marijuana or marijuana products.

(b) Any licensee, or agent or employee thereof, under this chapter who reasonably relies on a liquor purchase identification card issued pursuant to section 34B of chapter 138, or on a motor vehicle license issued pursuant to section 8 of chapter 90, or on an identification card issued under section 8E of said chapter 90, or on a valid passport issued by the United States government, or by the government, recognized by the United States government, of a foreign country, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation of such license, nor shall the licensee, agent or employee suffer any criminal liability, for delivering or selling marijuana or marijuana products to a person under 21 years of age. Any licensee, or agent or employee thereof, under this chapter, who reasonably relies on a liquor purchase identification card issued pursuant to said section 34B of said chapter 138, or an identification card issued under said section 8E of said chapter 90, or a motor vehicle license issued pursuant to said section 8 of said chapter 90, for proof of a person's identity and age shall be presumed to have exercised due care in making such delivery or sale of marijuana or marijuana products to a person under 21 years of age. Such presumption shall be rebuttable.

Section 10: Contracts pertaining to marijuana enforceable

Section 10. Contracts pertaining to marijuana enforceable

It is the public policy of the commonwealth that contracts related to the operation of marijuana establishments under this chapter shall be enforceable. A contract entered into by a licensee or its agents as permitted pursuant to a valid license issued by the commission, or by those who allow property to be used by a licensee or its agents as permitted pursuant to a valid license issued by the commission, shall not be unenforceable or void exclusively because the actions or conduct permitted pursuant to the license is prohibited by federal law.

Section 11: Provision of professional services

Section 11. Provision of professional services

A person engaged in a profession or occupation subject to licensure shall not be subject to disciplinary action by a professional licensing board solely for providing professional services to prospective or licensed marijuana establishments related to activity under this chapter that is not subject to criminal penalty under the laws of the commonwealth.

Section 12: General marijuana establishment operation

Section 12. General marijuana establishment operation

(a) In addition to requirements established by regulation pursuant to section 4 of this chapter or by a city or town pursuant to section 3 of this chapter, a marijuana establishment shall:

- (1) secure every entrance to the establishment so that access to areas containing marijuana is restricted to employees and others permitted by the marijuana establishment to access the area and to agents of the commission or state and local law enforcement officers and emergency personnel; and
- (2) secure its inventory and equipment during and after operating hours to deter and prevent theft of marijuana, marijuana products and marijuana accessories.
- (b) No marijuana establishment may cultivate, process, test, store or manufacture marijuana or marijuana products at any location other than at a physical address approved by the commission and within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the marijuana establishment to access the area. A greenhouse or outdoor marijuana cultivation area shall have sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals, including perimeter security fencing designed to prevent unauthorized entry.
- (c) No marijuana establishment shall allow cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from a public place without the use of binoculars, aircraft or other optical aids.
- (d) No marijuana establishment shall refuse representatives of the commission the right at any time of operation to inspect the entire licensed premises or to audit the books and records of the marijuana establishment.
- (e) No marijuana establishment shall allow any person under 21 years of age to volunteer or work for the marijuana establishment.
- (f) No marijuana establishment shall cultivate, manufacture, sell or otherwise transact business with any products containing cannabinoids other than those that were produced, distributed and taxed in compliance with this chapter.
- (g) No licensee shall operate a marijuana establishment without an operations certificate issued by the commission.
- (h) Each licensee shall file an emergency response plan with the fire department and police department of the host community.

Section 13: Penalties

Section 13. Penalties

- (a) Restrictions on personal cultivation. No person shall cultivate or process marijuana plants pursuant to section 8 of this chapter if the plants are visible from a public place without the use of binoculars, aircraft or other optical aids or cultivate or process marijuana plants outside of an area that is equipped with a lock or other security device. A person who violates this subsection shall be punished by a civil penalty of not more than \$300 and forfeiture of the marijuana, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.
- (b) Restrictions on personal possession. No person shall possess more than 1 ounce of marijuana or marijuana products within the person's place of residence pursuant to section 8 of this chapter unless the marijuana and marijuana products are secured by a lock. A person who violates this subsection shall be punished by a civil penalty of not more than \$100 and forfeiture of the marijuana.
- (c) Restrictions on public consumption of marijuana. No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited. A person who violates this subsection shall be punished by a civil penalty of not more than \$100. This subsection shall not apply to a person who consumes marijuana or marijuana products in a designated area of a marijuana establishment located in a city or town that has voted to allow consumption on the premises where sold and shall not be construed to limit the medical use of marijuana.
- (d) Possession of marijuana in motor vehicles. No person shall, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, possess an open container of marijuana or marijuana products in the passenger area of any motor vehicle. A person who violates this subsection shall be punished by a civil penalty of not more than \$500. For purposes of this section, "open container" shall mean that the

package containing marijuana or marijuana products has its seal broken or from which the contents have been partially removed or consumed and "passenger area" shall mean the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or passenger while in a seated position; provided however that the passenger area shall not include a motor vehicle's trunk, locked glove compartment or the living quarters of a house coach or house trailer, or if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

(e) Possession or cultivation of excess marijuana. Notwithstanding chapter 94C of the General Laws and until the import or export of marijuana to or from the commonwealth is not prohibited by federal law, a person who is at least 21 years of age and who cultivates more than 6 but not more than 12 marijuana plants or who possesses an amount of marijuana outside of his or her place of residence having a weight of more than 1 ounce but not more than 2 ounces shall be subject only to a civil penalty of not more than \$100 and forfeiture of the marijuana not allowed by section 8 of this chapter, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.

(f) Procurement of marijuana by a person under 21 years of age. A person under 21 years of age, except a qualifying patient holding a valid registration card for the medical use of marijuana, who purchases or attempts to purchase marijuana, marijuana products or marijuana accessories, or makes arrangements with any person to purchase or in any way procure marijuana, marijuana products or marijuana accessories, or who willfully misrepresents such person's age, or in any way alters, defaces or otherwise falsifies identification offered as proof of age, with the intent of purchasing marijuana, marijuana products or marijuana accessories, shall be punished by a civil penalty of not more than \$100 and shall complete a drug awareness program established pursuant to section 32M of chapter 94C of the General Laws. The parents or legal guardian of any offender under the age of 18 shall be notified in accordance with section 32N of chapter 94C of the General Laws and the failure within 1 year of the offense of such an offender to complete a drug awareness program may be a basis for delinquency proceedings for persons under the age of 17 at the time of the person's offense.

(g) Enforcement. Civil penalties imposed pursuant to this section shall be enforced by utilizing the non-criminal disposition procedures provided in section 32N of chapter 94C of the General Laws.

(h) Notwithstanding chapter 94C, a person less than 21 years of age, except a qualifying patient holding a valid registration card for the medical use of marijuana, who cultivates not more than 12 marijuana plants shall be punished by a civil penalty of not more than \$100 and shall complete a drug awareness program established pursuant to section 32M of chapter 94C. If that person is less than 18 years of age, the parent or legal guardian of that person shall be notified in accordance with section 32N of said chapter 94C. If a person is less than 17 years of age at the time of the offense and fails to complete a drug awareness program not later than 1 year after the offense, that person may be subject to delinquency proceedings.

(i) Whoever furnishes marijuana, marijuana products or marijuana accessories to a person less than 21 years of age, either for the person's own use or for the use of the person's parent or another person shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 1 year or both such fine and imprisonment.

For the purposes of this subsection, "furnish" shall mean to knowingly or intentionally supply, give or provide to or allow a person less than 21 years of age, except for the children and grandchildren of the person being charged, to possess marijuana, marijuana products or marijuana accessories on premises or property owned or controlled by the person charged.

This subsection shall not apply to the sale, delivery or furnishing of medical marijuana pursuant to chapter 94I.

Section 14: Marijuana Regulation Fund

Section 14. Marijuana Regulation Fund

(a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Marijuana Regulation Fund. It shall, subject to appropriation, consist of all monies received on account of the commonwealth as a result of applications for and licensing of marijuana establishments, all civil penalties received for violations of this chapter, revenue generated by the state tax imposed by section 2 of chapter 64N of the General Laws and interest earned or other income on balances in the fund.

(b) Money in the fund shall be subject to appropriation. Money in the fund shall be expended for the implementation, administration and enforcement of this chapter by the commission and by the department of agricultural resources for the implementation, administration and enforcement of sections 116 to 123, inclusive, of chapter 128 and the provision of pesticide

control pursuant to chapter 132B. Thereafter, money in the fund shall be expended for: (i) public and behavioral health including but not limited to, evidence-based and evidence-informed substance use prevention and treatment and substance use early intervention services in a recurring grant for school districts or community coalitions who operate on the strategic prevention framework or similar structure for youth substance use education and prevention; (ii) public safety; (iii) municipal police training; (iv) the Prevention and Wellness Trust Fund established in section 2G of chapter 111; and (v) programming for restorative justice, jail diversion, workforce development, industry specific technical assistance, and mentoring services for economically-disadvantaged persons in communities disproportionately impacted by high rates of arrest and incarceration for marijuana offenses pursuant to chapter 94C.

Section 15. (a) (1) The commission shall promulgate regulations for the licensure and oversight of independent testing laboratories, and shall establish testing protocols for the sampling, testing and analysis of marijuana, finished marijuana and marijuana products in consultation with the department of public health and the department of agricultural resources. Such regulations shall be based on the most recent standards as issued by the United States Pharmacopeial Convention and shall address sampling and analysis to characterize the cannabinoid profile and biological and chemical contaminants, including but not limited to terpenoids, pesticides, plant growth regulators, metals, microbiological contaminants, mycotoxins, and residual solvents introduced through cultivation of marijuana plants and post-harvest processing and handling of marijuana, marijuana products and ingredients.

(2) No marijuana or marijuana product shall be sold or otherwise marketed pursuant to this chapter or chapter 94I that has not first been tested by an independent testing laboratory and determined to meet the commission's testing protocols issued pursuant to paragraph (1).

(3) An independent testing laboratory shall report any results indicating contamination to the commission within 72 hours of identification.

(4) No laboratory agent or employee of an independent testing laboratory shall receive direct or indirect financial compensation, other than such reasonable contractual fees to conduct such testing, from any entity for which it is conducting testing pursuant to this chapter.

(5) No individual who possesses an interest in or is a laboratory agent employed by an independent testing laboratory, and no immediate family member of that individual, shall possess an interest in or be employed by a marijuana establishment.

(b)(1) An independent testing laboratory shall apply for a certificate of registration from the commission prior to testing, processing or transporting marijuana.

(2) A laboratory agent shall be registered with the commission prior to volunteering or working at an independent testing laboratory.

(3) An independent testing laboratory shall apply to the commission for a registration card for each affiliated laboratory agent by submitting, at a minimum, the name, address, and date of birth of the laboratory agent.

(4) An independent testing laboratory shall notify the commission within 1 business day if a laboratory agent ceases to be associated with the laboratory, and the laboratory agent's registration card shall be immediately revoked.

(5) No one shall be a laboratory agent who has been convicted of a felony drug offense. The commission may conduct criminal record checks with the department of criminal justice information services as provided in section 21 and may set standards and procedures to enforce this provision. Such standards and procedures may include requiring applicants seeking registration to submit a full set of fingerprints for the purposes of conducting a state and national criminal history records check pursuant to sections 167 to 178, inclusive, of chapter 6 and 28 U.S.C. section 534 through the department of criminal justice information services and the Federal Bureau of Investigation. The commission shall treat such information in accordance with said sections 167 to 178, inclusive, of said chapter 6 and the regulations thereunder.

(c) A registered laboratory agent shall not be subject to arrest, prosecution, civil penalty, sanctions or disqualifications, and shall not be subject to seizure or forfeiture of assets under Massachusetts law for actions taken under the authority of an independent testing laboratory, including possessing, processing, storing, transferring or testing marijuana provided the agent: (1) presents his or her registration card to any law enforcement official who questions the laboratory agent concerning their marijuana related activities; and (2) is acting in accordance with all the requirements of this chapter and chapter 94I.

Section 16. No licensee shall be granted more than 3 marijuana retailer licenses, 3 medical marijuana treatment center licenses, 3 marijuana product manufacturer licenses or 3 marijuana cultivator licenses; provided, however, that a licensee may hold 3 marijuana retailer licenses, 3 medical marijuana treatment center licenses, 3 marijuana product manufacturer licenses and 3 marijuana cultivator licenses.

Section 17. (a) The commission shall develop a research agenda in order to understand the social and economic trends of marijuana in the commonwealth, to inform future decisions that would aid in the closure of the illicit marketplace and to inform the commission on the public health impacts of marijuana. The research agenda shall include, but not be limited to: (i) patterns of use, methods of consumption, sources of purchase and general perceptions of marijuana among minors, among college and university students and among adults; (ii) incidents of impaired driving, hospitalization and use of other health care services related to marijuana use, including a report of the state of the science around identifying a quantifiable level of marijuana-induced impairment of motor vehicle operation and a report on the financial impacts on the state healthcare system of hospitalizations related to marijuana; (iii) economic and fiscal impacts for state and local governments including the impact of legalization on the production and distribution of marijuana in the illicit market and the costs and benefits to state and local revenue; (iv) ownership and employment trends in the marijuana industry examining participation by racial, ethnic and socioeconomic subgroups, including identification of barriers to participation in the industry; (v) a market analysis examining the expansion or contraction of the illicit marketplace and the expansion or contraction of the legal marketplace, including estimates and comparisons of pricing and product availability in both markets; (vi) a compilation of data on the number of incidents of discipline in schools, including suspensions or expulsions, resulting from marijuana use or possession of marijuana or marijuana products; and (vii) a compilation of data on the number of civil penalties, arrests, prosecutions, incarcerations and sanctions imposed for violations of chapter 94C for possession, distribution or trafficking of marijuana or marijuana products, including the age, race, gender, country of origin, state geographic region and average sanctions of the persons charged.

(b) The commission shall incorporate available data into its research agenda, including the baseline study conducted pursuant to chapter 351 of the acts of 2016, and coordinate and form partnerships with the department of public health, the department of elementary and secondary education, the department of higher education, the executive office of public safety and security and the executive office of labor and workforce development. The commission shall annually report on the results of its research agenda and, when appropriate, make recommendations for further research or policy changes. The annual reports shall be posted online in a machine-readable format.

Section 18. The commission shall audit as often as the commission determines necessary the accounts, programs, activities, and functions of all licensees. To conduct the audit, authorized officers and employees of the commission shall have access to such accounts at reasonable times and the commission may require the production of books, documents, vouchers and other records relating to any matter within the scope of the audit, except tax returns. The superior court shall have jurisdiction to enforce the production of records that the commission requires to be produced under this section and the court shall order the production of all such records within the scope of any such audit. All audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants. In any audit report of the accounts, funds, programs, activities and functions of a licensee issued by the commission containing adverse or critical audit results, the commission may require a response, in writing, to the audit results. The response shall be forwarded to the commission within 15 days of notification by the commission.

On or before April 1 of each year, the commission shall submit a report to the clerks of the house of representatives and the senate who shall forward the report to the house and senate committees on ways and means, which shall include, but not be limited to: (i) the number of audits performed under this section; (ii) a summary of findings under the audits; and (iii) the cost of each audit.

Section 19. Any liability to the commonwealth under this chapter shall constitute a debt to the commonwealth. Once a statement naming a licensee is recorded, registered or filed, any such debt shall constitute a lien on all commercial property owned by a licensee in the commonwealth and shall have priority over an encumbrance recorded, registered or filed with respect to any site.

Section 20. A licensee shall be subject to chapters 62 to 62E, inclusive, and chapters 63 and 63B.

Section 21. (a) The commission shall conduct fingerprint-based checks of state and national criminal history databases, as authorized by Public Law 92-544, for the following purposes: (i) prior to issuing a license as provided in section 4 and (ii) to determine the suitability of lab agents as provided in section 15. Authorized department staff may receive criminal offender record information and the results of checks of state and national criminal history databases under said Public Law 92-544 but they shall not receive juvenile adjudications and delinquency matters or sealed records. When the department obtains the results of checks of state and national criminal history databases, it shall treat the information according to section 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

(b) Fingerprint submissions shall be submitted by the commission to the identification unit within the department of state

police through the department of criminal justice information services, or its successor, for a state criminal records check and to the Federal Bureau of Investigation for a national criminal records check according to the policies and procedures established by the identification unit and the department of criminal justice information services. The department of state police and Federal Bureau of Investigation are expressly authorized to search criminal justice databases including all latent fingerprint submissions. Fingerprint submissions may be retained by the Federal Bureau of Investigation, the state identification section and the department of criminal justice information services to assist the commission. The department of criminal justice information services may disseminate the results of a state and national criminal history check to the commission as provided in this section.

(c) Notwithstanding subsections 9 and 9½ of section 4 of chapter 151B, if the commission receives criminal history record information from the state or national fingerprint-based criminal background checks that includes no disposition or is otherwise incomplete, the commission may request that an individual provide additional information regarding the results of the criminal background checks to assist the commission in determining the applicant's suitability for employment, licensure, registration or approval.

(d) The department of criminal justice information services shall disseminate the results of the criminal background check to the commission. The department of criminal justice information services shall only disseminate information under this section that would otherwise be available to the commission as provided in this section.

(e) All persons required to submit fingerprints under this section shall pay a fee to be established by the secretary of administration and finance, in consultation with the secretary of public safety and the commission, to offset the costs of operating and administering a fingerprint-based criminal background check system. The secretary of administration and finance, in consultation with the secretary of public safety and the commission, may increase the fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check service fee. The commission may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship. Any fees collected from fingerprinting activity under this chapter shall be deposited into the Fingerprint-Based Background Check Trust Fund, established in section 2HHHH of chapter 29.

SECTION 6. Notwithstanding any general or special law to the contrary, if the cannabis control commission fails to adopt regulations necessary for the implementation of this chapter on or before July 1, 2018, each medical marijuana treatment center may begin to possess, cultivate, process, manufacture, package, purchase or otherwise obtain and test marijuana and marijuana products and may deliver, sell or otherwise transfer marijuana to any person who is at least 21 years of age until the commission adopts the regulations necessary for implementation of this chapter and begins to issue licenses to operate marijuana establishments pursuant to section 5 of this chapter.

Section 7. The initial appointments to the Massachusetts cannabis control commission under section 76 of chapter 10 of the General Laws shall be not later than September 1, 2017.

Section 8. The initial appointments to the cannabis advisory board under section 77 of chapter 10 of the General Laws shall be not later than August 1, 2017.

SECTION 9. The cannabis control commission shall promulgate the initial regulations under section 4 of chapter 94G of the General Laws not later than March 15, 2018.

Relevant text added by Chapter 55 of the Acts of 2017:

SECTION 55. Notwithstanding any general or special law to the contrary, the Massachusetts cannabis control commission established pursuant to section 76 of chapter 10 of the General Laws shall promulgate regulations, guidelines and protocols necessary for the issuance of licenses pursuant to chapter 94G of the General Laws not later than March 15, 2018. The commission shall begin to accept applications for licenses pursuant to said chapter 94G not later than April 1, 2018.

SECTION 56. (a) The Massachusetts cannabis control commission shall prioritize review and licensing decisions for applicants for retail, manufacture or cultivation licenses who:

(i) are registered marijuana dispensaries with a final or a provisional certificate of registration in good standing with the department of public health pursuant to 105 CMR 725.000 that are operational and dispensing to qualifying patients; or

(ii) demonstrate experience in or business practices that promote economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for offenses under chapter 94C of the General Laws.

(b) The commission shall identify all applications subject to prioritization under subsection (a) submitted between April 1, 2018 and April 15, 2018 and grant or deny such applications prior to reviewing any other applications for licenses.

(c) The commission shall not issue a license pursuant to chapter 94G of the General Laws until June 1, 2018.

(d) The commission shall not approve any application for a license submitted by such a registered marijuana dispensary if, pursuant to chapter 94G of the General Laws, a host community, as defined in said chapter 94G, has prohibited marijuana establishments under said chapter 94G.

SECTION 57. The Massachusetts cannabis control commission, in consultation with the department of agricultural resources, shall report to the joint committee on marijuana policy and the house and senate committees on ways and means on participation in the regulated marijuana industry by farmers and businesses of all sizes. The first report shall provide recommendations to ensure farmers' access to marijuana licenses and to allow for the growth, cultivation, production and harvest of marijuana on farm or agricultural lands, including, to the extent permitted by state and federal law, lands protected under an agricultural preservation restriction and the possibility of including marijuana and industrial hemp as land in horticultural use for the purposes of assessment and taxation pursuant to chapter 61A. The recommendations, including drafts of legislation necessary to carry the recommendations into effect shall be reported within 12 months of the effective date of this act. The second report shall update the general court on progress made to promote and encourage full participation in the regulated marijuana industry by farmers and businesses of all sizes and shall be filed not later than December 31, 2018.

SECTION 58. The Massachusetts cannabis control commission shall make necessary accommodations and promulgate special regulations for the counties of Dukes County and Nantucket. Such regulations shall be promulgated on or before May 1, 2018.

SECTION 72. Notwithstanding any general or special law to the contrary, any person with a provisional or final certification of registration as of July 1, 2017 to dispense medical use marijuana, or any application pending before the department of public health which has not received provisional or final certification of registration, shall be entitled to convert from a non-profit corporation organized under chapter 180 of the General Laws into a domestic business corporation or a domestic other entity pursuant to chapter 156 of the General Laws, or any other such domestic business entity as permitted by the General Laws, by adopting a plan of entity conversion in accordance with section 9.51 of chapter 156D of the General Laws approved by a vote of $\frac{2}{3}$ of the members of its board of directors at a meeting duly called for the purpose or by unanimous written consent; provided, however, notwithstanding any law to the contrary, any plan of entity conversion adopted by an any medical use marijuana licensee or any application for a medical use marijuana license pending before the Massachusetts cannabis control commission which has not received provisional or final certification of registration shall not be required to be approved in accordance with the organic law of the non-profit corporation organized under said chapter 180. Articles of entity conversion shall be signed and submitted to the secretary of the commonwealth in the manner prescribed in and subject to section 9.53 and section 9.55 of said chapter 156D on a form prescribed by the secretary of the commonwealth and the secretary of the commonwealth shall approve all such filings submitted pursuant to this section. For the purposes of converting from a non-profit corporation organized under said chapter 180 into a domestic business corporation or a domestic other entity pursuant to said chapter 156, notwithstanding any provision in the articles of organization applications pending before the Massachusetts cannabis control commission which have not received provisional or final certification of registration to the contrary, the members of its board of directors may determine that such plan of entity conversion is consistent with its purpose and such non-profit corporation shall be entitled to surrender its articles of organization in connection with the plan of entity conversion. Notwithstanding any law to the contrary, neither the entity conversion nor the issuance of any shares, interests, or other securities, obligations, rights to acquire interests or other securities, cash, other property or any combination of the foregoing, set forth in or resulting from the plan of entity conversion shall be subject to taxation or result in the imposition of any tax by the commonwealth.

SECTION 73. (a) The Massachusetts cannabis control commission may exempt any establishment registered and operating as a medical marijuana treatment center pursuant to 94I as of July 1, 2017 from any licensing requirement of this chapter to continue as a medical marijuana treatment center. Upon renewal of the license for a medical marijuana treatment center, all regulations promulgated by the commission needed for such licensing requirement, shall be met and approved by the commission.

(b) Notwithstanding any general or special law to the contrary, for the purposes of reviewing and approving an application for a license to operate a marijuana establishment, the Massachusetts cannabis control commission shall identify applicants who are holders of a provisional or final certificate of registration pursuant to 94I and accompanying regulations. The commission shall consider issuance of a provisional or final certificate of registration as achievement of accreditation status. The commission shall ensure an expedited review process for applicants for a license to operate a marijuana establishment who have achieved accreditation status and shall only require that such applicants submit specific information not previously required, analyzed, approved and recognized by the department of public health.

SECTION 75. Notwithstanding any general or special law to the contrary, a state, municipal or county employee whose official duties or responsibilities require them to take any action related to the enactment, administration or enforcement of chapter 94G of the General Laws or 94I, this act or any rule or regulation promulgated pursuant to said chapter 94G or 94I or this act shall be indemnified by their employer for all costs associated with any legal proceedings brought against said state, municipal or county employee by the federal government as a result of any such official action taken by said state, municipal or county employee; provided, however, that no state, municipal or county employee shall be indemnified for a violation of chapter 94G or 94I of the General Laws, this act or any rule or regulation promulgated pursuant to said chapter 94G or 94I or this act for any actions taken in their personal capacity.

SECTION 79. Notwithstanding any general or special law to the contrary, nothing in this act shall affect any restrictions or limitations on the operation of medical marijuana treatment centers, marijuana establishments or both imposed by a municipality pursuant to 94I or chapter 334 of the acts of 2016 as of July 1, 2017.

Solicitation of Interest

Town of South Hadley seeks consultants for the purposes of assisting the Town in preparing and advertising request for proposals for the full management of Ledges Golf Course. This would include the golf operations, maintenance as well as food and beverage operations. The consultant would also assist in opening and review all proposals and provide a recommendation including strengths and weaknesses regarding the individual proposals in reference to the request for proposal related to the Ledges Golf Course.

The timeline for the subsequent request for proposal would be to begin review of pertinent information that the town has in January and meet with stakeholders. Prepare an RFP for distribution by February 16, 2018. Responses to the request for proposal would be needed by May 30, 2018 with a recommendation for a contract award to the Town of South Hadley by June 5, 2018.

Groups, partnerships, companies, or similar entities who respond to this solicitation of interest will be excluded from responding to the ensuing request for proposal.

Evaluation Criteria

- A. No less than ten years of cumulative experience in seeking golf course operator for public course.
- B. No less than five years of experience with Massachusetts procurement process relative to contracting operational services.
- C. Three comparable completed projects your group has worked on successfully. It should have demonstrable similarities to this solicitation of interest (please include in submittal). The submittal should include letters from clients in attestation of the work. Please include samples of reports if delivered.
- D. An experience in meeting with stakeholders and making public presentations. The expectation would be six or less on-site public meetings any additional meetings would be compensated at a separate stated amount.
- E. Must submit references with contact information, two from a governmental entity the respondent has worked with in a similar capacity, one from a contractor who was successful in being awarded a contract from a process the respondent oversaw.

F. The Town of South Hadley will supply the contractor with all available materials, documents, records or other information in its possession, including but not limited to previous requests for proposals, solicitations, annual reports, present contracts regarding the Ledges Golf Course.

Respondents to this solicitation of interest must submit the necessary information outlined in the evaluation criteria as well as a price quote for the full service. This includes, assembling community input, development of request for proposal, circulation of the proposal to likely interested and qualified groups, oversight of collection, review and assisting in award of the subsequent contract.

The respondent should also submit a list of persons who will be assigned to this project with a short vitae for each, along with a list of other support staff who would be available to assist (no vitae necessary).

Interested parties must submit a letter of interest and the required qualifications electronically to Michael J. Sullivan, Town Administrator at msullivan@southhadleyma.gov no later than December 23, 2017. Included in the solicitation should be a price for all services described.

PLANNING & CONSERVATION



JEFF SQUIRE, Chair
MARK CAVANAUGH, Vice-Chair
MELISSA O'BRIEN, Clerk
BRAD HUTCHISON
DIANE SUPCZAK-MULVANEY
LARRY BUTLER

RICHARD HARRIS, Director of Planning & Conservation

TO: Selectboard Members
Michael Sullivan, Town Administrator

SUBJECT: Allocation of \$85,000 from 40R Smart Growth Funds Account

The Town has been awarded approximately \$1,025,800 under the MassWorks program to undertake infrastructure improvements in South Hadley Falls. These improvements entail the following:

- o Upgrade Gaylord Street including reconstruction of the roadway and replacing outdated water lines and related elements,
- o Improve sidewalks along Gaylord and Lamb Streets as well as crosswalks
- o Create bike lanes in accordance with the adopted Complete Streets Policy
- o Upgrade the HG&E parking lot on Main Street across from the Egg & I

This grant has been sought for several years and the Town was very fortunate to receive this funding under a very competitive grant program. I should note that the program intends for projects to be implemented promptly during the next construction season. However, the MassWorks program does not pay for design & engineering efforts and it is essential that we get the work underway for the 2018 Construction Season.

We have received a proposal from Fuss & O'Neill, Inc.; the Town's engineering consultants, to undertake the engineering work for a fee of up to \$85,000. The work will be broken down into two phases in a manner that allows the Town to determine how to most effectively utilize the MassWorks grant. The time frame proposed by the firm will allow the project to be undertaken during the 2018 construction season – barring any unforeseen circumstances.

As you will recall, the Town received a \$350,000 grant as a result of creating the South Hadley Falls Smart Growth Zoning District. These funds were provided to the Town as an incentive for creating the District and are not restricted in their use. At the November 18, 2015 Special Town Meeting, Article #15 was voted by a Majority of Town Meeting members present. This article, in part, as voted states that any such funds received "shall be placed in an account under the Town Administrator and/or Selectboard for use to support community and economic development and planning efforts . . ."

Since the MassWorks project directly benefits the South Hadley Smart Growth Zoning District and furthers the objectives and strategies in the draft South Hadley Falls Urban Redevelopment Plan, we would request that the Selectboard authorize utilizing up to \$85,000 of the Smart Growth Zoning District incentive grant for the engineering & design work by Fuss & O'Neill, Inc.

If you have any questions regarding this matter, please feel free to contact us.

Sincerely,

Handwritten signature of Richard L. Harris in blue ink.

Richard Harris, AICP
Director, Planning & Conservation

Handwritten signature of Jim Reidy in blue ink.

Jim Reidy
Superintendent Public Works

Sarah Etelman, Chair
John Hine, Vice-Chair
Andrea Miles, Clerk
Ira Brezinsky
Bruce Forcier

Michael J. Sullivan
Town Administrator

November 17, 2017

Honorable South Hadley Selectboard,

Please accept this abridged accounting of the activities and projects the staff and I have been working on over the past two weeks, it has been very busy, but progress is being made on a number of fronts.

Thank you for your support, suggestions and guidance.

Unreserved Free Cash; will be certified for FY 18 at just over \$2.7 million dollars. This very healthy URFC amount may give people some pause and should, if there was not some legitimate answers to the size of the amount. I would suggest some of the largess comes from tight fiscal management and cooperation from many departments. This accounted for about \$770K and is not extraordinary. End of year “returns” are usual in the course of municipal business.

The receipts which are higher than normal and also ones we cannot really count on again, are \$242K over the Cherry Sheet estimate for Choice/Charter, some warrant articles close-outs for projects which were completed and were under budget accounted for \$162K and as you have heard before permits and Building Department fees were \$200K over revenue projections (MHC). Excise tax receipts (approximately \$120K up) continues to be robust as people seem to have expedited their new car purchases. We also have enjoyed healthy growth which cycles back to revenue growth in subsequent years.

In the next few weeks I hope to outline some of the “savings” accounts I would like to appropriate some of the URFC. You may remember accepting a “Compensation Account” Town Meeting accepted and we have set up, but we have not actually appropriated any money into the account. This account is designed to address contractual or employment related costs when someone is leaving the employ of the Town of South Hadley. Presently it must be taken from the individual departments personnel budget, often causing a need to hold off on replacement hiring’s. It is prudent to fund that account, with \$100K. You might draw a similarity to our self-funded “workmen’s comp” or “injured on duty”, where the balances are reviewed each year to consider if additional appropriations are needed or should be considered.

Other funds which I would recommend we consider making additions include OPEB, Capital Stabilization, Stabilization and perhaps forming a new “South Hadley Senior Center Building Stabilization Fund”, this would be helpful in preparing for some of the costs associated in advance of the need to borrowing. I realize we are getting somewhat ahead of ourselves as no determination has been made about a new center, but I still believe it is prudent planning.

AG’s Cannabis Seminar; the AG’s Chief Counsel Margaret Hurley was on hand at a forum held in NoHo to clarify the new regulations being promulgated from the Massachusetts Cannabis Control Commission (MCCC). After a couple of hours of explanation and questions, it still seemed a little “foggy”. It was not for a lack of trying on the part of Atty. Hurley. It simply put a situation where the state government seems to like
116 MAIN STREET, SUITE 109, SOUTH HADLEY, MASSACHUSETTS 01075-2896

a deer in the headlights. The pro-lobby has done a great job at making this a opt out scenario and has taken away a great deal of local control afforded to the Local Licensing Authority. If a community does nothing by April 1, 2018 a retail interest can apply to MCCC and will only be subjected to the restriction placed upon them by the state, with the exception with getting a PILOT agreement with the town in place (the agreement seems to be fairly prescribed) and have a tax rate (up to 3%) of sales in place.

There were BOH members, ConsCom members, Planning Board Members, Selectboard Members (including SoHa SB Member Forcier), representatives from NoHo, Hatfield, Hadley, Hilltowns, Springfield, Westfield, Easthampton, there were communities which seemed for and against, but the majority seemed unsure. This forum was helpful and I would like to thank Conservation/Planner Anne Capra for attending as well.

When a community chooses to restrict the number of or an outright ban retail or cultivation operations within their boundaries the Town must have a by-law voted on by Town Meeting and a ballot vote in the affirmative. Attorney Hurley strongly suggested the ballot question language should be a mirror image of the by-law to hopefully help avoid any challenges.

South Hadley, unlike some communities took the step to place a moratorium in place last fall. The moratorium was approved by the AG's Office. The moratorium will protect the community from applications until July 1, 2018. This is the date which was suggested by the AG's Office to be prudent since then there has been some communities who have successfully gotten moratoriums in place which have November 30, 2018 (this speaks to the rapid changing dynamic of the regulation).

With the suggestions and information provided to me I would suggest the most prudent step would be to start the process of an outright ban at this time and place some zoning by-laws in place which would still give a level of protection to the community in that regard if the "ban" was to fail.

Please understand I am not taking a position professionally or personally on the issue of recreational marijuana. My recommendation to the SB to seek a ban is to allow this community to see the issue settle out, what the MCCC does in the end, how it effects other communities, generally a period of enlightenment about this budding (sorry) industry. In the future as a town you could go back a re-visit how it would serve South Hadley.

It should be noted that there will still be a need to consider some "General By-laws" regarding bans form use in public space, "bring your own cannabis" cafes and I am sure a number of other challenges which I would have to expand my mind to recognize. These considerations could I believe could wait until ATM as they do not have the constrictive and complex approval process attached ...at this time.

South Hadley Drug and Alcohol Prevention Coalition; Karen Walsh Pio did a wonderful job presenting information about and the success South Hadley Drug and Alcohol Prevention Coalition has achieved and by way of the teen representatives testimony the successes to be reaped in the future.

PhD Amy Turncliff spoke about her advocacy in her home town of Westborough which was the first town or city in Massachusetts to ban cannabis sales or cultivation. She also presented some interesting factual evidence about problems (ie marijuana related accidents, increased use by youth) and how it was adversely affecting communities which allowed "pot shops" to be located in Colorado.

The information Dr. Turncliff presented was very much a wake up call for anyone who feels it will not have any effect on their lives, if a shop is in your community. As we all realize we are not Colorado, and very likely surrounding cities or towns will be allowing, if not embracing the industry, so it will be here in South Hadley.

There was also information given by Heather Warner from SPIFY (a drug and alcohol prevention group for Hamp County) about how people ingest the cannabis. Vaping, edibles, lotions, infused drinks are all part of the program now, making the detection and monitoring much more difficult. This was a great opportunity to learn more about this subject matter.

PVPC Roundtable; SHELD Manager Sean Fitzgerald and SB/SHELB member John Hine took time out from their busy schedules to attend a presentation on Solar Energy Placements, various models of income structures and how the SMART program works. Unfortunately according to Katelyn Kelly from Mass DOER is not presently available to SHELD customers, it is only available to investor owned utility customers.

This is another subject area which is very complex and I was happy to have some high IQs with me to explain what they were talking about at a later date. Please do feel I do not think these quarterly “Roundtables” are not excellent opportunities to network and steal ideas or should I say hear about “best practices”, because they are helpful and I appreciate PVPC providing us with the medium for exchange.

MassDevelopment visit to South Hadley; Beth Murphy Vice President of Real Estate Development and Julia Cowan Vice President of Financing for MassDevelopment were kind to accept an invitation to speak with RDA Chair Frank DeToma, Town Planner Richard Harris and myself about how they may fit into some of the projects and plans being developed for South Hadley Falls.

It occurred to me that sometimes it is hard to see the forest through the trees or even how some we see the trees so often we stop seeing them change. What I mean by this when the Town Planner and I start discussing all that is going on in the Falls or is being developed for the neighborhood it is eye popping. Houses and businesses are being cleaned up on North, Ludlow, Lamb and Main, all good signs.

Our friends from MassDevelopment strongly suggested we apply for a \$50K no match planning grant they offer. This would be essentially a starting off point where we can both get to know each other’s organizations and ways a little more intimately. The Town Planner is creating an application concentrating on Main and Bridge which if all goes well we will receive in early 2018, which will add to other technical assistance we have gotten and work we are contracting for now.

Marion Dangerous Dog Hearing: I would like to thank Richard Todryn and Dr, Golusha for their courageous and truthful testimony in regards to this sad case heard in Belchertown District Court on November 15, 2017. Town Counsel Edward Ryan and his associate Attorney Brian O’Toole did a commendable job preparing and presenting the Town Of South Hadley’s appeal.

It was a long proceeding to say the least, starting at 10 AM and the last testimony was heard about 3:30 PM (April Marion). It is now in the hands of Judge Shea to make a decision. Health Director Sharon Hart, ACO MacClair Mailhott, Sgt. Robert Whelihan and Officer Ray Faginski all prepared and provided their expertise in this public safety matter.

During the process I learned a great deal and recognize some of the mistakes I made along the way. I have been given and accepted some sage advice in how I would manage a “Dangerous Dog” hearing in the future, all while I hope it proves unnecessary to ever have another such hearing. Thank you to the SB for your patience in this matter.

COA Training; I attended the COA Board Training today, held at the South Hadley Senior Center. There were representatives from Ludlow, Chicopee and South Hadley in attendance to hear suggestions from an Elder Affairs Office representative about how boards should function.

The most salient “take away” I heard from the presenter was something I wholeheartedly agree with “COA Boards should not direct the Director”. It is always difficult it seems, particular for COA Boards to stay in their lane and develop policy, as opposed to trying to manage day to day. This idiom should apply to other South Hadley boards as well. It should be stated I am blessed that the South Hadley Selectboard realizes and does a great job at allowing me to manage, I appreciate your efforts to guide me towards solutions to problems. Thank you.

Comcast Negotiations; I wanted make sure the entire SB was aware we have had an initial meeting with Comcast about the 2019 renewal. Attorney Eileen Leahy met with SB Vice-Chair John Hine, and Media Director Bob Smith.

It was a typical first meeting and all parties were provided with plenty to consider and each with due diligence, as well. It is not stated enough to the general public, these negotiations due not cover rates, programming and in fact unless there is continued and egregious break in service to customers there is little we can do in that area. We will meet again in late January or February.

Regional Services; The first regional relationship I would like to mention is that the Town of South Hadley and the Town of Hadley have been working with the PVPC to apply for a grant to make platform enhancements to customer service platforms. The intent is to explore if there is way to “share” some software platforms at a reduced rate and to coordinate and offer training to both staffs. We will see if we get the grant.

The second is the South Hadley/Granby limited shared inspectional service agreement. I am hoping I will receive back from Granby Town Administrator Chris Martin a signed MOA to share with you in regards to the relationship. Basically it will be a one year MOA where we would allow the BC to provide a limited oversight and assistance to the Granby Local Inspector, until such time he can get the appropriate and required certifications to be a Building Inspector. The Town of Granby would pay the Town of South Hadley \$9,500 for FY18 for the service. The Town of South Hadley would pay a stipend to the Building Commissioner \$6,500 for his additional time and responsibility. This would be a lump sum up front payment...not that I do not trust Granby, just that I would prefer money in the bank to a promissory note.

As always thank you for your patience and support. Happy Thanksgiving! Go HolyoI mean South Hadley!

Respectfully submitted;

Michael J. Sullivan
Town Administrator, South Hadley

Memorandum of the Agreement
Town of South Hadley and the Town of Granby
Inspectional Services Coverage

November 3, 2017

This agreement is solely between the Town of South Hadley and the Town of Granby in respect to Inspectional Services, this agreement does not extend to other governmental entities or organizations. It is in place for fiscal year 2018 and covers all service provided previously and forward as of assigned date.

The Town of South Hadley has been and will continue to provide assistance to the Town of Granby for fiscal year 2018 the services are related to the South Hadley Building Commissioner.

The Town of Granby is presently without a Certified Building Commissioner.

The Town of South Hadley presently has a certified Building Commissioner in its employ and properly registered with the State of Massachusetts Board of Building Regulations and Standards (MBBRS) and Massachusetts General Law (MGL).

The Town of South Hadley has been and will continue provide assistance to the Granby Local Inspector, including professional advice, tutorials, limited coverage and other reasonable accommodations related to inspectional services.

The Town of South Hadley Building Commissioner will work through the Granby Local Inspector, or at the request of the Town Administrator if the Local Inspector absence. All work will be presented from Granby to South Hadley in a manner to minimize time on task for the South Hadley Building Commissioner and /or the Town of South Hadley.

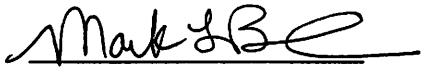
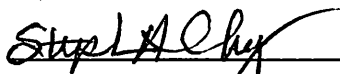
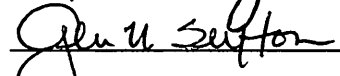
The service being provided by South Hadley is on as needed basis it will not infringe on the responsibilities to the Town of South Hadley. The Town of South Hadley remains the Building Commissioners primary responsibility. The Building Commissioner will be available in non-business hours for specific emergencies (i.e. major fire or other event which cause structural damage or is suspected of causing damage). The South Hadley Building Commissioner will present to the Granby Local Inspector, Fire Chief, Police Chief and Town Administrator all reasonable contact information. He will apprise all parties of any extended period of time where he is not available (i.e. vacation).

This agreement covers, but not limited to: plan review, occupancy permit, 110 inspection, 304 inspections and other necessary sign offs which the Building Commissioner would be required perform under Massachusetts General Laws.

The South Hadley Building Commissioner will appoint the Granby Local Inspector as the Zoning Enforcement Officer, as prescribed by MGL, for the Town of Granby under this agreement.

The Town of Granby will make a payment of \$9,500 to the Town of South Hadley upon executing this agreement. Either party has the right to revoke this agreement with a 30 day notice in writing to the other party, in the event this right is exercised the Town of South Hadley will refund \$791.66 for any remaining full months remaining in the fiscal year.

This inter-municipal agreement is for fiscal year 2018, it may be extended by agreement of both parties.




Granby Board of Selectmen

Christopher Martin
Town Administrator Granby

South Hadley Selectboard

Michael J Sullivan
Town Administrator South Hadley