

TOWN OF SOMERSET, MA
Special Town Meeting
March 19, 2018

The Special Town Meeting was called to order at 6:04 pm by the Moderator Lucia Casey at the Somerset Berkley Regional High School. The Pledge of Allegiance was led by the Moderator.

Article 1: To see if the Town will vote to raise, appropriate and/or transfer from available funds a sum of money for the purpose of conducting a complete streetlight audit.

The Advisory & Finance Committee unanimously recommends that the Town vote to appropriate the sum of \$25,000.00 for the purpose of this article and that said sum be transferred from Undesignated Surplus.

Motion: A motion was made by Selectman Berube and seconded by Selectman Moniz that the Town vote to appropriate the sum of \$25,000.00 for the purpose of this article and that said sum be transferred from Undesignated Surplus. Discussion followed by Selectman Berube. In the absence of further discussion, the Moderator called for the vote.

Vote: Unanimous

Article 2: To see if the Town will vote to amend the Somerset Zoning By-laws by amending subsection 4.2.6.m., which currently reads as follows:

| | Res. | Bus. | Ltd. Bus. | Open Rec. | Ind. | Lt. Ind. |
|-------------------------------|------|------|--------------|--------------|------|-------------|
| m. Medical Marijuana Facility | No | No | No | No | SP | SP |

by renaming subsection m. as "Marijuana Establishment" in place of "Medical Marijuana Facility" and to amend section 7.6.3, which is currently entitled "Medical Marijuana Facility By Special Permit" by re-titling it as "Marijuana Establishments By Special Permit" and amending it to read as follows:

7.6.3 Marijuana Establishments by Special Permit

- A. Purpose: These provisions are adopted pursuant to the authority granted the Town of Somerset by Massachusetts General Laws chapter 40A and pursuant to the Town's home rule authority under the General Laws and Constitution of the Commonwealth of Massachusetts. It is the purpose and intent of this by-law provision to address the operation of marijuana establishments as that term is defined in M.G.L. c. 94G, sec. 1, and 935 C.M.R. 500, et seq., including registered medical marijuana dispensaries and medical marijuana treatment centers as those terms are defined in 105 C.M.R. 725.004, (together referred to as "Marijuana Establishments") in order to provide for the location of such facilities in appropriate places and under strict conditions in accordance with the provisions of M.G.L. c. 94C and c. 94G and regulations adopted thereunder, as they may be amended from time to time. In addition, it is the purpose and intent of these provisions to minimize impacts that may be adverse to the health, safety, and general welfare of the Town of Somerset and its present and future inhabitants, including impacts on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, traffic patterns, and other land uses incompatible with such facilities, as well as to limit the overall number of facilities to that which is necessary to serve the Town and the immediate region. The provisions of this By-law have neither the purpose nor intent of restricting or denying access by adults to medical or non-medically-prescribed marijuana as permitted under the laws of the Commonwealth of Massachusetts, nor restricting or denying rights that properly licensed, permitted, and registered distributors of marijuana may have to sell, distribute or exhibit such products. It is also not the intent or effect of this by-law to legalize the illegal distribution of any drugs or substances forbidden by applicable law or regulation. In the event any provision of this section of the By-law is found to be unconstitutional or otherwise infirm, such a finding shall not affect the validity of the other provisions herein.
- B. Applicability: The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use and marijuana not medically prescribed is prohibited in the Town of Somerset unless permitted under this section and no marijuana facility or establishment shall be established except in compliance with this section.
- C. Definitions: As used throughout this By-law the following words shall be defined as indicated.

Marijuana: shall be as defined under chapters 94C and 94G of the Massachusetts General Laws, 105 Code of Massachusetts Regulations 725.004, and 935 Code of Massachusetts Regulations 500.002.

Medical Marijuana: Marijuana that is designated and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions.

Marijuana Establishment: this term shall include licensed marijuana establishments as defined in M.G.L. c. 94G, sec. 1, and other applicable law, which include a marijuana cultivator, craft marijuana cooperative, marijuana testing laboratory, marijuana product manufacturer, marijuana retailer (store-front or delivery-only), marijuana social consumption establishment (primary or mixed use), marijuana transporter (third party or existing licensee), marijuana micro-business, or any other type of licensed marijuana-related business, as well as registered medical marijuana dispensaries and medical marijuana treatment centers as those terms are defined herein and in 105 C.M.R. 725.004.

Medical Marijuana Treatment Center or Registered Marijuana Dispensary: shall mean a not-for-profit entity as defined by Massachusetts law only, registered with and licensed by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal care-givers.

D. Standards of Granting of Special Permits to Operate a Marijuana Establishment:

SPGA: Board of Appeals

Districts: Industrial and Light Industrial

Application: Existing marijuana establishments, if any, must apply for a special permit hereunder within ninety (90) days after the adoption of this section of the Bylaw by the Town.

Conditions: Determination by the Board of Appeals that the following requirements are met:

(1) The establishment must be set back the following minimum distances from other specified uses (as used in this section, distances shall be measured by following a straight line from the nearest point of the building in which the proposed facility is located to the nearest point of the property line of the parcel containing the use from which the proposed marijuana establishment use is to be separated):

(a) At least two hundred feet (200') from any lot zoned for residential purposes;

(b) At least five hundred feet (500') from the following: any public or private school, day care facility for children, or other educational facility; any park, playground, or open space recreational area; any church, synagogue, temple, or other religious facility or institution; any hospital, nursing home, long-term care facility or other medical facility; and,

(c) At least one thousand feet (1,000') from any other marijuana establishment.

(2) The marijuana establishment must comply with all applicable Massachusetts laws and regulations regarding the licensing, siting, construction, and operation of such establishments and may not display or sell materials or substances that are illegal, unlicensed, or unpermitted under said laws and regulations.

(3) The establishment must erect and maintain a landscaped buffer along any side and rear property lines that abut properties used for residential purpose, said buffer to have a height of at least six (6') feet and depth of at least five (5') feet; in the sole discretion of the Board of Appeals, a buffer of man-made materials may be substituted for a landscaped buffer. Said buffers shall be in addition to any fencing required by applicable state laws and regulations.

(4) The establishment must have and maintain adequate security, alarm systems, on-site parking and lighting in compliance with applicable regulations and as determined necessary by the Board of Appeals.

(5) Solid waste generated by the marijuana establishment shall not be commingled with that of any other uses on the site and shall be stored in secured receptacles contained within a fenced and locked enclosure with visibility slats in a location that is visible from the street. Storage and disposal of all waste must be in strict accordance with state regulations.

(6) Except as otherwise permitted by the Board of Appeals and licensed by the appropriate state authorities, the establishment shall be contained within a single building or structure. The establishment may not be located in a single structure containing any residence or any other separate establishment open to the public, such as a retail establishment, whether or not under separate ownership or

management. The building and parking areas shall be clearly visible from the street. All entrances and exits shall be clear of obstructions at all times and clearly visible from the street.

(7) In addition to meeting the other requirements of this section, the lot on which the facility is located must have a minimum lot size of twenty thousand (20,000) square feet, and all structures thereon must have minimum front yard, side yard and rear yard set-backs of at least fifty (50') feet.

(8) The hours of operation are to be established by the Board of Appeals in the Special Permit, but in no event shall said facility be open or operating between the hours of 9:00 P.M. and 8:00 A.M.

(9) The applicant must supply the Board of Appeals and the Somerset Police Department with the names, addresses, phone numbers, e-mail addresses, and positions of each owner, shareholder, member, officer, manager, and employee of the proposed establishment. The Police Department shall review the list to ensure compliance with paragraph (10) below and shall provide a letter to the Board of Appeals indicating whether the individuals in question meet the requirements of the law. In addition, a permitted applicant must thereafter supply the Police Department, Building Inspector, and Board of Health Agent with a current list of the names, telephone numbers, and e-mail addresses of all management, staff and keyholders, which must be kept updated at all times.

(10) No special permit for a marijuana establishment may be issued to a person who has been convicted of a crime or violation that would prevent him or her from being properly licensed by the Commonwealth of Massachusetts pursuant to the laws and regulations governing the type of establishment seeking to be permitted. In addition, no special permit shall be issued or remain issued to a business or non-profit corporation in which any owner, shareholder, member, officer, manager, or employee has been convicted of such crimes or violations.

(11) A special permit shall automatically expire if the applicant's registration with and/or licensing by the Commonwealth of Massachusetts has been revoked or suspended, expires, is terminated, is transferred to another entity, or is relocated to a new site.

(12) A site plan shall be submitted by the applicant. The site plan shall be drawn to scale (no smaller than 1 inch = 40 feet) and shall include a north arrow. The site plan shall accurately show the location and dimensions of the marijuana establishment building and all other buildings and accessory structures on the property, the proposed use or uses of all buildings or structures, the dimensions and precise locations of areas within a building to be used in connection with the marijuana establishment and those to be used for any other purposes, the set-backs of all structures or any other areas in use by the marijuana establishment from the lot lines, access and egress routes from the site, the location of all required on-site off-street parking and loading spaces, the location of other open space on the site, a table showing the Zoning By-law parking and loading space requirements for the site and the number of parking and loading spaces provided, the location and design of all signs and advertising devices, the location of the solid waste disposal enclosure and dumpsters required herein, compliance with other applicable laws and regulations regarding siting and security, and such other pertinent information as may be required by the Board of Appeals.

(13) The applicant must supply the Zoning Board with copies of all required registrations, licenses and permits issued to the applicant by the Commonwealth of Massachusetts for the facility, along with a copy of the applicant's Articles of Organization or Articles of Incorporation, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and its most recent annual report. Copies of all such licenses and permits issued by the Commonwealth shall be posted at the facility, along with all other signage required under applicable laws and regulations and, in the case of a medical marijuana establishment, including but not limited to clearly visible signage indicating "Registration card issued by the Massachusetts Department of Health required".

(14) The Board of Appeals shall require that any such special permit granted hereunder shall be valid only for the entity permitted and non-transferable, shall be limited to the site permitted, shall not run with the land and shall be limited to the applicant's ownership or control of the premises permitted as a marijuana establishment, and shall expire upon sale or transfer of the subject property or cessation of operations by the permitted entity.

(15) The Board of Appeals may impose other reasonable conditions, safeguards, and limitations on time or use in any special permit granted.

The Planning Board unanimously recommends that the Town vote to approve this article.

The Advisory & Finance Committee unanimously recommends that the Town vote to approve this article.

Motion: A motion was made by Selectman Moniz and seconded by Selectman Berube that the Town vote to amend the Somerset Zoning By-laws as set forth in Article 2. Discussion followed by Selectman Moniz, Michael McDonald, Attorney Clement Brown (Town Counsel), Carleton Whitney, Selectman McNamara, Chief George McNeil, Brendan Ferreira, Kathleen Gunning, Kevin McCormick,

Jack Fernandes, William Smith, Denise Jordan, Richard Fenstermaker, Thomas Pasternak. A motion was made by Mr. Pasternak to indefinitely postpone Article 2. For lack of a 2nd, the moderator declared the motion failed. Discussion followed by Richard Peirce and Emily McNamara. A motion was made to move the question by Selectman Moniz and seconded by David Berube. Motion carried by a unanimous vote. The Moderator reminds the body that this article requires a 2/3 vote. The Moderator called for a standing counted vote of the body.

Vote: Yes – 198, No – 38 (Total 236 votes - required 2/3 to pass was 158) Motion carried.

A motion was made by Selectman Moniz and seconded from the floor that Articles 1 & 2 not be reconsidered. The motion carried by a nearly unanimous vote as declared by the Moderator.

Article 3: To see if the Town will vote to amend the Official Zoning Map of the Town of Somerset, adopted by the May 19, 2008, Annual Town Meeting and as subsequently amended, by changing the zoning district of the following-described parcel, shown as Lot 31 on Assessor's Map A-9, from a "Business District" to an "Industrial District".

That certain parcel of land on the easterly side of Brayton Point Road in Somerset, Massachusetts.

BEGINNING at a point in the easterly line of said Brayton Point Road about 810.95 feet, more or less, southerly of the intersection of the easterly line of Brayton Point Road with the southerly line of Grand Army Highway at the northwesterly corner of the herein described parcel; thence along a stone wall bounded northerly by land now or formerly of Sands Realty Trust S 51° 24' 14" E a distance of six hundred forty-two and 54/100 (642.54) feet to a point for a corner; thence turning and running along said stone wall and by land now or formerly of Sands Realty Trust S 15° 47' 10" E a distance of fifty-one and 86/100 (51.86) feet to a point for an angle; thence turning and running along Lot 2 on a plan of land hereinafter defined S 31° 24' 05" W a distance of three hundred sixty-three and 99/100 (363.99) feet to a point for a corner; thence turning and running along said Lot 2 N 56° 23' 21" W a distance of five hundred sixteen and 75/100 (516.75) feet to a point for an angle; thence turning and running along said Lot 2 N 14° 17' 20" W a distance of two hundred thirty-seven and 02/100 (237.02) feet to a point for an angle; thence turning and running along said Lot 2 N 59° 40' 14" W a distance of fifty-two and 45/100 (52.45) feet to the easterly side of said Brayton Point Road; thence turning and running along said Brayton Point Road N 47° 04' 41" E a distance of three hundred twenty-one and 88/100 (321.88) feet to the point of beginning. Containing 292, 217 square feet (6.71 acres), more or less.

Said parcel being Lot 1 on the Approval Not Required Plan entitled: "Approval Not Required Plan; 1400 Brayton Point Road, Somerset, MA; Assessor's Map A-9, Lots 31 & 222; Prepared for: Brad Raposa; Prepared by: Insite Engineering Services, LLC; Date: October 20, 2005; Scale: 1"= 100'", and said Plan having been recorded with the Bristol County, Fall River District, Registry of Deeds, at Plan Book 137, Page 75.

The Planning Board unanimously recommends that the Town vote to approve this article.

The Advisory & Finance Committee recommends by a majority that the Town vote to approve this article.

(Vote: 6-0, 1 Abstain)

Attorney Thomas Killoran made a motion that the Town vote to amend the Official Zoning Map of the Town of Somerset, MA adopted May 19, 2008, and subsequently amended, by rezoning the parcel of land from a "Business District" to an "Industrial District", as set forth in Article 3. Discussion followed by Atty. Killoran, Dominic Raffa, Steven Sabra, Jack Fernandes, Chief McNeil, Stephanie Field, Norbert Dionne, Carol Wilkinson, David Berube, Kevin McCormack, Lauren Shea, Selectman McNamara, Holly Haddad, and Doug Bancroft. A motion was made by Selectman Berube and seconded by Selectman McNamara to move the question. Motion carried by a nearly unanimous vote as declared by the Moderator. A motion was then made by Selectman Moniz to have a ballot vote. There was not 2nd. Motion failed. The Moderator reminded the body that this article requires a 2/3 vote and therefore called for a standing counted vote.

Vote: Yes – 169, No – 55 (224 total votes - required 2/3 to pass was 150) Motion carried.

A motion and a 2nd came from the floor for no reconsideration of Article 3. Motion carried by a nearly unanimous vote by the Moderator.

Article 4: To see if the Town will vote to authorize the Board of Water and Sewer Commissioners to take by eminent domain, purchase, or acquire by other means tax title property located at and near 0 Lake Street, Assessor's Map E-4, Lot 85, as further described in a deed recorded at Book 3171, Page 137, in the Bristol County Fall River Registry of Deeds and on file with the Town Clerk's office, and to appropriate and transfer a sum of money from available funds for said purposes.

The Advisory & Finance Committee unanimously recommends that the Town vote to authorize the Board of Water and Sewer Commissioners to acquire the land described in Article 4 and to appropriate and transfer the sum of \$1,300.00 from Account No. 89-2585-553 for said purposes.

Motion: A motion was made by Water & Sewer Commissioner Scott O'Brien and seconded by Robert Lima, that the Town vote to authorize the Board of Water and Sewer Commissioners to purchase and acquire the land described in Article 4 and to appropriate and transfer the sum of \$1,300.00 from Account No. 89-2585-553 for said purposes. Discussion followed by Commissioner O'Brien. In the absence of further discussion, the Moderator called for a vote, reminding the body that this article requires a 2/3 vote. The Moderator declared the motion carried by a unanimous vote.

Attendance: 250

I, Dolores Berge, Town Clerk of the Town of Somerset, hereby certify the above action was taken at the Special Town Meeting of March 19, 2018, and duly recorded.

A true copy attest;

Dolores Berge, Town Clerk