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Fairhaven Board of Selectmen

January 14, 2019 Meeting Minutes FAIRHAVEN,
MASS.

Present: Chairman Daniel Freitas, Vice Chairman Charles Murphy, Clerk Robert Espindola
Town Administrator Mark Rees, and Administrative Assistant Vicki Paquette.

Chairman Freitas called the meeting to order in the Town Hall Banquet Room at 6:32 p.m. The meeting was recorded by Cable Access.

MINUTES

Mr. Murphy made a motion to accept the minutes of the December 14, 2018, open session. Mr. Espindola seconded. Vote was unanimous. (3-0)

TOWN ADMINISTRATORS REPORT

- Fire Chief Tim Francis and Deputy Chief Todd Correia were in attendance to present the new ladder truck to the Board. The Board took a brief recess at 6:34 p.m. to go outside to look at the new ladder truck. The meeting resumed at 6:43 p.m.
- Mr. Rees update the Board on his continued meetings with the departments for the upcoming FY 20 budgets
- Mr. Rees reported to the Board that the Zoning Board of Appeals has made a revision in the Rogers School zoning, reducing the number of units from 63 to 52.
- Mr. Rees informed the Board that he will be meeting with the Fairhaven Rotary Club on Tuesday, January 15, 2019 to discuss the informational sign that is on the lawn of Town Hall
- Mr. Rees will be attending the Massachusetts Municipal Association Annual Meeting and Trade Show in Boston over the weekend
- Mr. Rees updated the Board on the Facilities Plan. Mr. Rees explained that a year and a half ago the Town Hired a consultant to assess our old beautiful buildings. The consultant then did a "needs analysis" and a "space analysis." The Capital Planning Committee (CIP) reviewed the plan and prioritized the projects. The list priorities are: The Public Safety Building, The School Administration Building, the Tripp School, The Town Hall, Wood and East Fairhaven elementary schools, The BPW building, Hastings Middle

School, Fairhaven High School and the library. The total cost of all these projects is over one hundred million dollars. The CIP would like to see these projects addressed over a 10-20 year plan. Police Chief Myers and Fire Chief Francis have worked on a Request for Proposal (RFP) for the town to acquire land for a new station. Mr. Espindola wanted to know what would happen to our old buildings once new ones are built. Mr. Rees explained that some may be demolished or put on the market. Mr. Espindola suggested that the Selectmen hold a workshop to discuss the projects

COMMITTEE LIASON REPORTS

Mr. Espindola told the Board the Employee Wellness Committee will meet on Tuesday, January 15, 2019 and will vote to appoint a member to the Municipal Fiber Study Committee

Mr. Espindola stated that Economic Development Committee will meet this week.

Mr. Freitas updated the Board that he will be attending the Rogers Negotiating working group and the Library Trustees meeting on Tuesday, January 15, 2019.

VETERANS SERVICES AGENT

Chairman Freitas and the Board presented Jane Bettencourt with flowers and thanked her for "holding down the fort" for the past year in the Veterans Office. They also thanked former agent Jim Cochran for filling in part time when needed.

Mr. Rees introduced Bradford Fish to the Board. Mr. Fish has been selected by Mr. Rees as the new Veterans Agent. Mr. Rees explained that Mr. Fish comes highly qualified from the town of Westport. He is a former Marine and National Guard member. Board members welcomed Mr. Fish and thanked him for his service. Mr. Murphy made a motion to approve the Town Administrator's appointment of Brad Fish as the Veterans Agent. Mr. Espindola seconded. Vote was unanimous. (3-0) (Attachment A)

TOTAL CONFECTIONS LLC

Mr. Murphy made a motion to approve the license renewal for Total Confections LLC. Mr. Espindola seconded. Vote was unanimous. (3-0)

FAIRHAVEN GETTY

Mr. Rees requested more time for First Hot line Auto Sales (d/b/a Fairhaven Getty Auto Sales and Leban Fuel, Inc. (d/b/a Fairhaven Getty) so that he may meet with Mr. Elfai. Mr. Murphy made a motion to extend the two licenses until January 28, 2019. Mr. Espindola seconded. Mr. Freitas voted no. Vote passed. (2-1)

MUNICIPAL FIBER STUDY COMMITTEE

Mr. Murphy made a motion to appoint Sean Powers to the Municipal Fiber Study Committee. Mr. Espindola seconded. Vote was unanimous. (3-0)

Mr. Murphy made a motion to appoint Jay Simmons to the Municipal Fiber Study Committee. Mr. Espindola seconded. Vote was unanimous. (3-0)

TOWN REPORT PHOTOS

Selectmen looked at 17 photos that were submitted by residents for the cover of the 2018 Town Report. After some discussion they chose two photos, one for the front cover and one for the back cover.

PEOPLE'S LIQUOR STORE

Store manager Peter Mills met with the Selectman. Mr. Murphy made a motion to approve the change of manager for People's Liquor Store (d/b/a Douglas Wine and Spirits). Mr. Espindola seconded. Vote was unanimous. (3-0)

LOO AQUACULTURE

Mr. Rees explained that the final approval for Matt Loo will be postponed until the next Selectboard meeting on January 28, 2019.

HOST COMMUNITY AGREEMENT

Town Counsel Tom Crotty met with the Selectmen to review the Host Community Agreement. Attorney Crotty explained that this is a five year agreement between the Town and BASK, Inc. This agreement gives BASK the option to back out if they are unable to get insurance. Attorney Crotty stated that the Canibus Commission has asked the courts to review this portion of the document. Chapman Dikerson, and Joanne Leppanen, from BASK, Inc told the Selectmen that they are in agreement with the language in the document. Mr. Murphy made a motion to approve the BASK Host Community Agreement as presented. Mr. Espindola seconded. Vote was unanimous. (3-0) (Attachment B)

7-ELEVEN KENO MACHINE

Chairman Freitas read a letter from the Massachusetts Lottery Commission stating they are offering a KENO monitor to existing KENO To Go agents in our area to display the game at their location. Selectmen had no objections to this.

NOTES AND ANNOUNCEMENTS

Mr. Espindola reminded residents that as of January 1, 2019 the town wide speed limit is now 25 MPH. (Attachment C)

Mr. Espindola offered Congratulations to the New England Patriots who will be heading Superbowl LIII on February 3, 2019.

Mr. Murphy congratulated Gary Lavalette and Christine Neville on being named Man and Woman of the Year by the Standard Times.

Mr. Murphy offered his sympathies to the family of West Island resident Isobel Crotch. Mrs. Crotch will be remembered as a staple on the island.

OTHER BUSINESS

Mr. Murphy made a motion to adjourn at 7:29 pm. Mr. Espindola seconded. Vote was unanimous. (3-0)

Respectfully Submitted,

Vicki L. Paquette

Vicki Paquette
Administrative Assistant
(Minutes approved on 2/11/2019)

Documents appended:

A: Brad Fish resume

B: Bask Host Community Agreement draft, projected revenues, DOR memo

C: Speed limit map

To Whom It May Concern,

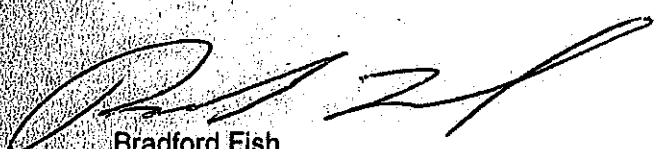
I am Bradford Fish and I believe that I would be an asset to the Town of Fairhaven as the Veterans' Services Officer/Agent. This is due to the fact that the last 3 ½ years I have served as the Veterans' Services Officer for the Town of Westport.

I have attended all of the conferences required of the position and I have just re-certified with the State. This allows the town I work for to get reimbursed 75% of monies paid instead of 50% for non-certified VSOs.

Prior to my current position, I was a Manager for the U.S. Postal Service and a Staff NCO in the military. I believe I have the people skills required of this job.

- Born and raised in Acushnet/New Bedford.
- United States Marine Corps, December 1981-August 1986, Helicopter Crew Chief
- Army National Guard, 1986-2003, Helicopter Crew Chief; called to Active Duty from November 2003 – May 2005 in support of Operation Noble Eagle
- Department of Defense and U.S. Postal Service, 1986 – 2014; retired.
- Veterans' Service Officer, Town of Westport, April 2005 – present
- Married with 4 children; 2 sons and 2 daughters; both sons were also U.S Marines

I look forward to discussing my application for the Veterans' Services Officer position for the Town of Fairhaven.



Bradford Fish
Veterans' Services Officer

Bradford J. Fish

Education

Wentworth Institute of Technology 09/01/1988 - 12/01/1988
Quonset/ North Kingstown, Rhode Island, USA Education
Subject: Aviation process
Embry-Riddle Aeronautical University 01/01/1986 - 06/01/1986
Quonset/ North Kingstown, Rhode Island, USA Subject: Aviation Process
Platform Instructor Course 05/12/2002 Ft. Dix New Jersey

New Bedford High School 09/02/1977 - 06/22/1981

Professional experience

WESTPORT VETERAN'S SERVICE OFFICER

4/27/2015- Present

WESTPORT MASS.

USA

Manager for the Town of Westport for all related veteran services including the Memorial Day Parade and the Veterans Day Parade. Also in charge of 48 clients that are receiving Chapter 115 benefits. Which if a veteran qualifies I will provide them with necessary financial assistance for food, shelter, and medical care in accordance with a formula. I also spend time going to local functions to show my support of the different veteran organizations within the town. I have processed around 140 federal claims for compensation. My annual budget is around \$420,000.00 per year which I keep track of all expenditures.

Additional professional activities

UMASS DARTMOUTH (DATTCO)

01/23/2014- 4/27/2015

DARTMOUTH MASS.

USA

Supervisor Shuttle service

Description: As the Supervisor for the University's shuttle service I had 20 part time employees that I scheduled to drive a certain route during there shift. I also had to schedule in there special events which ranged from on campus to driving to Boston or Providence. We ran from 0700 to Midnight Monday thru Friday and weekends from Noon to 930PM. I also filled in as a driver when this was needed and was on call 24 seven. I developed a great working relationship with the drivers and employees of the University.

UNITED STATES POSTAL SERVICE MANAGER FIELD MAINTENANCE OPERATIONS

02/13/2007 - 01/31/2014

PROVIDENCE, Rhode Island

USA

Maintenance

Description: As the Manager Field Maintenance I have the responsibilities of 178 Post Offices in our district and 4 Area Maintenance Technicians who cover this wide area. During the coarse of my daily routine I field anywhere from 20-25 service calls a day through the FSO web site at which time I decide what takes precedence and what calls my employees have the knowledge and the tools to complete the job. If they can not I must then do an initials coast comparison, efficiency, equipment, personnel and public interest contract out I

also coordinate the work load with Post Masters in the field as to not impede there daily operations I have been very successful in receiving letters of praise for myself and my employees.

06/03/2001-02/13/2007

UNITED STATES POSTAL SERVICE MANAGER MAINTENANCE NEW
BEDFORD, Massachusetts
USA

Maintenance

Description: Assigned as the Manager, Maintenance, Ensure the efficiency of the Custodial craft Mt. Pleasant Post Office and make work-load decisions for mechanics going out to different field offices. I changed the start time of one of the custodians by two hours and also changed his cleaning routine to coincide with his later staying time. I coordinated with field office supervisors the best times to send mechanics to their offices so they would not to impede their mail operations. This change in schedule resulted in a much more effective cleaning routine for the custodian and also put a custodian in the building for coverage while the building was open. I now have an excellent working relationship with the field office managers. The New Bedford Post Office scope of responsibility consists of five leased buildings, one leased parking lot, three separate cleaning contracts, and one snow removal contract. Notifying Lesser of any problems with the buildings. I had to coordinate the repair of a leaking roof at one building. I have also had to renew two building leases ,two cleaning contracts and the snow removal contract. The snow removal contract involved the measuring of the lots and walkways to be contracted for snow removal. I met with contractors to negotiate prices per square foot for snow removal and sanding. I was also the COR for the New Bedford area one of the contract jobs that I oversaw for the Postal Service was the re-pointing of the downtown office which was a 1.3 million?

UNITED STATES POSTAL SERVICE MANAGER MAINTENANCE
OPERATIONS
SUPPORT

02/15/2003 - 10/15/2003

PROVIDENCE, Rhode Island
USA

Maintenance

Description: I have for a total 14 months over the past few years replaced the Manager Operations Support overseeing 10 Supervisors on 3 different tours for staffing it is a task in itself with vacation schedule's and sick leave calls. Also managing 2 million dollars worth of inventory and machinery. When a piece of equipment is down hard it takes all of your resources and knowledge on what avenue to take to receive the part needed in a very timely manner. Whether I have to call every plant with in a 500 mile radius and once the part is found what would be the most efficient way and quickest way to get that machine up and running for Operations. Sometimes it is quicker and easier to throw the part on an MVS or send an employee to go pickup. I have personally come in early one night for a parts issue, it was Christmas one of our Kodak printers had not been delivered from the airport by a service company. I proceeded to make some phone calls to where this part was at and got nowhere I drove to the airport around 3 am when to unclaimed baggage looked into the locked room and saw our printer sitting there found the airport night manager to open the room and 2 other guys to help me load the printer into my truck. Once back at the plant the down equipment was up and running in about an hour. I also oversee MSDS updates making sure we have everything needed to comply.

**UNITED STATES POSTAL SERVICE SUPERVISOR MAINTENANCE
OPERATIONS**

(SHOP)

07/13/2000 - 06/01/2001

PROVIDENCE, Rhode Island

USA

Maintenance

Description: Assigned as Supervisor of Maintenance Operations (Shop) at the Providence P&DC. Supervise an assigned group of Building and Equipment Maintenance Specialists. I have supervised seven Maintenance Mechanics, five Building Equipment Mechanics, two Electricians, two Industrial Equipment Mechanics, two Letter Box Mechanics, one Welder and one Carpenter. This involves the organizing and coordinating of work for the different mechanics on a daily basis. I have supervised all preventative and corrective maintenance related to all seven different areas of Maintenance. I prepared Maintenance schedules and had to be able to successfully decide which job, in each field, must take priority on a daily basis. I also ensured that all maintenance personnel complied with the established standards and safety regulations. I was also required to coordinate maintenance activities with other supervisors on and off my tour. During my assignment as a Supervisor, I was informed by both craft and management that I had a very effective work relationship with the maintenance group.

Work Experience

UNITED STATES POSTAL SERVICE MAINTENANCE MECHANIC

05/05/1995 - 11/03/1999

PROVIDENCE, Rhode Island

USA

Maintenance

Description: Had the responsibility for building maintenance ex. plumbing, electrical, carpentry.

UNITED STATES POSTAL SERVICE LABORER CUSTODIAN

06/15/1992 - 05/03/1995

PROVIDENCE, Rhode Island

USA

Maintenance

Description: Cleaned three different facilities on a daily basis and was responsible for snow plowing and removal and landscaping

UNITED STATES POSTAL SERVICE LETTER CARRIER

05/06/1989 - 06/15/1992

NEW BEDFORD, Massachusetts

USA

Customer Service/Delivery

Description: Delivering Mail

DEPARTMENT OF DEFENSE HELICOPTER MAINTENANCE
MECHANIC

12/05/1986 - 05/06/1989

NORTH KINGSTOWN, Rhode Island

USA

Maintenance

Description: Repaired 3 different type helicopters for Department of Defense

UNITED STATES MARINE CORPS. HELICOPTER CREWCHIEF ON CH-46'S

12/28/1981 - 08/26/1986

TUSTIN, California

USA

Maintenance Description: Maintained aircraft assigned to me and flew almost 2,000 hours.

**Community
activities**

HELICOPTER AIRCREWMAN (USMC/US ARMY) 23 YEARS RETIRED
ON CALL FIREFIGHTER (TOWN OF ACUSHNET/DARTMOUTH)
SOUTHCOST YOUNG MARINES
HONORABLE MEMBER OF THE ORDER OF ST. MICHAEL (AVIATION
AWARD)

MARINE CORPS LEAGUE MEMBER AND OFFICER SGT AT ARMS AND
VICE COMMANDANT.

References

Chris Benson Aircraft Mechanic 508-717-1119

Gary Carter Pilot/Military 508-264-713

Robert Parker OIG 617-406-8014

Steve Linden USPS Manager 401-578-2837

CLASSES

08/20/2008 08/21/2008 BROCKTON P&D ASBESTOS CLASS 3

01/15/2008 01/15/2008 BROCKTON P&D MASTER PLAN TRAINING

09/12/2007 09/12/2007 NORTH EAST AREA ASBESTOS MANAGEMENT
FOR CONTRACTING

OFFICERS

11/01/2006 11/01/2006 PROVIDENCE P&DC 10 HOUR OSHA GENERAL
INDUSTRY

06/01/2006 06/01/2006 PROVIDENCE P&DC EEO RIGHTS AND
REMEDIES

05/01/2006 05/01/2006 PROVIDENCE P&DC DYNAMICS OF
COMMUNICATIONS

05/01/2006 05/01/2006 PROVIDENCE P&DC PERSONNEL SELECTION
METHODS

12/01/2005 12/01/2005 PROVIDENCE P&DC SHPEG OVERVIEW

11/01/2005 11/01/2005 PROVIDENCE P&DC SAFETY AND HEALTH
FACILITY INSPECTION
TRAINING

10/10/2005 10/10/2005 PROVIDENCE P&DC JOINT LABOR-
MANAGEMENT SAFETY AND
HEALTH COMM. TRA

09/01/2005 09/01/2005 PROVIDENCE P&DC THE DYNAMICS OF
COMMUNICATION
12/28/1981 08/24/2005 MILITARY UNITED STATES MARINES/US ARMY
08/01/2005 08/01/2005 PROVIDENCE P&DC REASONABLE
ACCOMMODATIONS IN THE
WORKPLACE
07/15/2005 07/15/2005 PROVIDENCE P&DC SEXUAL HARASSMENT
NEW PERSPECTIVES
07/08/2005 07/08/2005 PROVIDENCE P&DC EMERGENCY EVACUATION
TEAM PLANNING
07/03/2005 07/04/2005 NEW BEDFORD RED CROSS AMERICAN RED
CROSS CPR/FIRST AID
TRAINING
07/01/2005 07/01/2005 PROVIDENCE P&DC MASS. ENVIROMENTAL
COMPLIANCE
05/01/2003 05/01/2003 PROVIDENCE P&DC FACILITY SAFETY
COORDINATOR TRAINING
10/01/2002 10/01/2002 PROVIDENCE P&DC ETHICS FOR MANAGERS
12/10/2001 12/10/2001 PROVIDENCE P&DC INJURY COMPENSATION
THE SUPERVISORS
ROLE
06/01/2001 06/01/2001 PROVIDENCE P&DC LOCAL PURCHASES
CREDIT CARD FIELD
02/01/2001 02/16/2001 NORMAN OKLAHOMA BUILDING SYSTEMS FOR
SUPERVISORS
12/05/2000 12/06/2000 NORTH EAST AREA SAFETY FOR POSTAL
LEADERSHIP
10/16/2000 10/16/2000 PROVIDENCE P&DC LABOR ISSUES

MEMO

TO: Board of Selectmen
FROM: Mark Rees, Town Administrator
DATE: January 11, 2018
RE: Bask Host Community Agreement

Attached are three documents relating to this matter.

-The latest version of the Agreement. If there are any further changes, we distribute them at the meeting Monday night.

-The projected revenues from the sale of recreational marijuana

-A Department of Revenue advisory stating that money the town receives from marijuana business has to go into the general fund to be appropriated at town meeting.

**BASK, INC., HOST COMMUNITY AGREEMENT FOR THE SITING OF A
RECREATIONAL MARIJUANA ESTABLISHMENT IN THE TOWN OF FAIRHAVEN**

This Host Community Agreement (the "Agreement") is entered into this ____ day of ____,
____, 201__ (the "Effective Date") by and between the Town of Fairhaven acting by and
through its

([TITLE OF MUNICIPAL EMPLOYEE], with a principal address of 40 Center Street,
Fairhaven, MA 02719 (hereinafter the "Municipality") and Bask, Inc. with a principal office
address of 2 Pequod Road, Fairhaven, MA 02719 (hereinafter "Company") (Municipality and
Company, collectively the "Parties"), "Parties").

RECITALS

WHEREAS, Company intends to locate a licensed Recreational Marijuana Establishment
("RME") for the Cultivation, ~~Product Manufacturing~~ Product Manufacturing, and Retail Sale
~~and Transportation and Transportation~~ of marijuana in accordance with the laws of the
Commonwealth of Massachusetts ("MA Law") and those of the Municipality ("Local
Law");

WHEREAS, Company desires to provide community impact fee payments to the Municipality
pursuant to M.G.L. c. 94G, § 3(d) in order to address any reasonable costs imposed upon the
Municipality by Company's ~~Company's~~ operations in the Municipality; and

WHEREAS, the Municipality supports Company's ~~Company's~~ intention to operate a RME for the
Cultivation, Product Manufacturing, Retail Sale and Transportation of marijuana and other uses
of recreational marijuana in the Municipality.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is
hereby acknowledged, and for the mutual promises set forth below, the parties agree as follows:

AGREEMENT

1. Host Community Payments.

RME Related Payments—In the event that Company obtains a license, or its equivalent all
necessary approvals, for the operation of a RME in the Municipality from the Cannabis Control

Commission ("CCC"), and receives all necessary approvals from the Municipality to operate a RME, then Company agrees to the following:

i. The Company shall make ~~monthly~~quarterly~~annual~~ payments to the Municipality in the amount of

Three [NUMBER] percent (3%)~~(—%)~~ of the previous monthly~~quarterly~~gross sales of recreational marijuana and recreational marijuana products (collectively "Recreational Marijuana"), not including state and local sales taxes," at the Facility (the "RME Payment").".

i. The initial RME Payment shall be due on the ~~tenth~~first day of the ~~second~~third - ~~(2nd4th) fourteenth (14th)~~calendar -month following the date that the Company begins retail sales of Recreational Marijuana in the Municipality (the "Initial RME Payment").".

ii. Subsequent RME Payments shall be due on the tenth (10th) of each month~~calendar quarter thereafter anniversary date of the Initial RME Payment for the term of the Agreement.~~

iii. Payments under this Agreement shall be in addition to, and not in lieu of, any other payments, including taxes, as required by law, or as required pursuant to the terms of any other agreement between the Company and the Municipality

2. Term and Termination:

(a) ~~—~~The Term of this Agreement shall be five (5) years from the Effective Date (the "Term").". This Agreement shall automatically terminate at the end of the Term.

(b) Early Termination:

In the event Company ceases all operations in the Municipality, this Agreement shall become null and void. In the event Company loses or has its license(s), approvals, and/or permits to operate in the Municipality revoked by the relevant Licensing Authority(ies) or the Municipality, and such loss or revocation has not been reinstated within applicable time appeals periods, this Agreement shall become null and void, and the Company shall to cease operations.

(c) Termination by the Municipality:

This Agreement may be terminated by the municipality for cause upon default by the Company of any of the provisions hereof. In the event of default by the Company the Town shall give written notice to the Company specifying the nature of the default and indicating its intention to terminate the Agreement. If the Company fails to cure the default within ten (10) days of delivery of notice of default the TownMunicipality may terminate this Agreement. Upon notice of termination, the Company shall ceased operations. Notice of termination shall be delivered by the TownMunicipality to the Planning Board for the TownMunicipality; and to the Cannabis Control Commission, and shall be recorded in the Bristol County (S.D.) Registry of Deeds, provided that failure to provide or record such notice shall not impair the effectiveness of the termination of the Agreement. The Municipality may terminate this Agreement at any time during the Term of this Agreement. The Company shall not be required to cease operations following the termination of this Agreement. The Parties may agree to renegotiate or renew this Agreement prior to the end of the Term.

(d) Post Termination Obligations

Upon termination of this Agreement all unpaid obligations, including payment of the RME Payment due for sales through the date of cessation of operations at the Facility shall be paid within ten (10) days of the date of termination. The obligations of the Company pursuant to Article 15 shall continue and survive, notwithstanding the termination of the Agreement. Termination of this Agreement shall not act to terminate the obligations of the Company pursuant to any laws, licenses, permits, or any other agreement to which the Company is subject or is a party.

3. **Payments.** The Company shall make the payments to the Municipality as set forth in Section 1 of this Agreement. While the Municipality has the sole discretion for determining how to spend the RME Payment(s) ~~(the "Payments")~~ (the "Payments"), the Municipality understands and acknowledges that, as required by M.G.L. c. 94G, § 3(d), the Payments shall be reasonably related to the costs imposed upon the Municipality by ~~Company's~~ Company's operation of a RME in the Municipality. Furthermore, the Municipality understands and acknowledges that, pursuant to M.G.L. c. 94G, § 3(d), any cost to the Municipality imposed by ~~Company's~~ Company's operation of a RME in the Municipality shall be documented and considered a public record pursuant to MA Law.

4. **Acknowledgements.** The Municipality understands and acknowledges that Payments due pursuant to this Agreement are contingent upon the ~~Company's~~ Company's receipt of all state and local approvals to operate a RME in the Municipality.

5. **Review.** ~~During the Term of this Agreement, the Municipality and the Company will review the Payments every twelve (12) months to ensure that the Payments are reasonably related to the costs imposed upon the Municipality by Company's operation of the RME in the Municipality (the "Annual Review"). In the event the Annual Review finds that the Payments are not reasonably related to the costs imposed upon by the Municipality by Company's operation of the RME in the Municipality, the Parties agree to adjust the Payments to reflect the costs accordingly.~~

6. **Local Taxes.** At all times during the Term of this Agreement, property, both real and personal, owned or if not owned, operated by Company shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid ~~either directly by Company or by its landlord as and when due, and neither Company nor its landlord shall not object or otherwise challenge the taxability of such property. Failure by the Company or the Landlord to pay any tax as and when due shall be a default under this Agreement.~~

7. **Community Support and Additional Obligations.**

a. a. Local Vendors — to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, Company shall use good faith efforts in a legal and non-discriminatory manner to give priority to qualified local businesses and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility.

b. b. Employment/Salaries — except for senior management, and to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, Company shall use good faith efforts in a legal and non-discriminatory manner to give priority to hire qualified residents of the Municipality as employees of the Facility.

c. c. The Company shall, at least annually, provide the Municipality with copies of all reports submitted to the Licensing Authority(ies) regarding Company's~~Company's~~ operations at the Facility.

d. d. The Company will work cooperatively with all necessary municipal departments, boards, commissions, and agencies ensure ~~to that~~ Company's~~Company's~~ operations are compliant with all of the Municipality's~~Municipality's~~ codes, rules, and regulations. The Company hereby authorizes the Town~~Municipality~~ by its officers or agents to enter the Facility for the purpose of inspection upon reasonable notice and in accordance with all state regulations. For the purpose of this provision one hour notice shall be deemed reasonable. No advance notice shall be required in the case of an emergency resulting from a condition threatening the health or safety of any person.

7. **Support.** The Municipality agrees to submit to the required Licensing Authority(ies), including the CCC, all documentation and information required by the Licensing Authority(ies) from the Municipality for the Company to obtain approval to operate a RME at the Facility. The Municipality agrees to support Company's~~Company's~~ application(s) for a RME with the required Licensing Authority(ies) but makes no representation or promise that it will act on any other license or permit request in any particular way other than by the Municipality's normal and regular course of conduct and in accordance with their codes, rules, and regulations and any statutory guidelines governing them. Failure by the Town~~Municipality~~, its officers or agents, to follow the normal or regular course of conduct, or to act in accordance with applicable laws or regulations shall not be actionable as a default under this Agreement. The sole remedy for such failure shall be the remedy or remedies otherwise provided to the Company by applicable law. Nothing in this Agreement shall require the Municipality to act, or to fail or refuse to act, in any way which violates state ~~or federal~~ laws regarding marijuana. It shall not be a violation of this Agreement for the Municipality to act, or to fail or refuse to act, in a good faith effort to comply with state ~~or federal~~ laws regarding marijuana.

8. **Security.** Company shall maintain security at the Facility in accordance with a security plan presented to the Municipality and approved by the Licensing Authority(ies). In addition, Company shall at all times comply with MA Law and Local Law regarding security of the Facility.

9. **Governing Law.** This Agreement shall be governed and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to the principals of conflicts of law thereof. ~~The Parties expressly waive any defense to enforcement based upon nonconformance with federal law regarding the illegality of marijuana. Venue for any action arising from the terms of this contract, or for any other action between the parties arising from or relating to the operation of an RME, shall be solely in the trial court for Bristol County.~~

10. Amendment/Amendments/Waiver. Amendments or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all Parties, prior to the effective date of the amendment.

11. Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both Parties would be substantially or materially prejudiced.

12. Successors/Assigns. This Agreement is binding upon the Parties hereto, their successors, assigns and legal representatives. The Municipality shall not assign or transfer any interest or obligations in this Agreement without the prior written consent of the Company, which shall not be unreasonably delayed, conditioned, or withheld. The Company shall not assign or transfer any interest or obligation in this Agreement without the prior written consent of the Municipality, which shall not be unreasonably delayed, conditioned, or withheld.

13. Entire Agreement. This Agreement constitutes the entire integrated agreement between the Parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the Parties hereto.

14. General Obligations of Company: The Company shall comply with the requirements of all applicable laws and regulations of the Commonwealth and the Town/Municipality, including the conditions of any license, permit, special permit or other authorization granted to the Company for the operation of an RME and activities related thereto. Failure by the Company to so comply shall be a default under this Agreement, and shall be grounds for termination in addition to such other sanctions as may apply under applicable laws and regulations.

15. Indemnity. The Company shall indemnify and hold harmless the Municipality from any and all claims for damages of any sort whatsoever, including claims of violation of state or federal law, and shall reimburse the Municipality for any damages, including fines or other charges recovered from, paid by or assessed against the Municipality, and for attorneys' fees and expenses, and all other costs incurred by the Municipality in defense of such claims, which claims whether in whole or in part, arise from or are related to the operation of the RME or this Agreement.

15. Insurance/Bond

TO BE DISCUSSED

(10) Liability Insurance Coverage or Maintenance of Escrow.

(a) ~~A Marijuana Establishment~~The Company shall obtain and maintain general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, and product liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, except as provided in 935 CMR 500.105(107)(b) or otherwise approved by the Commission. The deductible for each policy shall be no higher than \$5,000 per occurrence.

(b) ~~A Marijuana Establishment~~In the event that the Company that documents an inability to obtain minimum liability insurance coverage as required by 935 CMR 500.105(107)(ab) paragraph (a), above, with the approval of the Municipality acting in its sole discretion, the Company may place in escrow, under a form of escrow agreement satisfactory to the Municipality, a sum of no less than \$250,000 or such other amount approved by the CommissionMunicipality, to be expended for coverage of liabilities.

(c) The escrow account required pursuant to 935 CMR 500.105(107)(b) paragraph (b), above, must be replenished within ten business days of any expenditure.

(d) Reports documenting compliance with 935 CMR 500.105(107) paragraphs (a) – (c), above, in the form of certificates of insurance or bank statements shall be made in a manner and form determined by the Commission pursuant to 935 CMR 500.000 annually, and as otherwise reasonably requested by the Municipality.

1516. Notices. Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To the Municipality:

[NAME/TITLE]
[ADDRESS LINE 1]
[ADDRESS LINE 2]

To the Company:

Bask, Inc.
2 Pequod Road
Fairhaven, MA 02719

Notice shall be deemed given (a) two (2) business days after the date when it is deposited

with the U.S. Post Office, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if next business day delivery is required, (c) upon the date personal delivery is made, or (d) upon the date when it is sent by facsimile, if the sender receives a facsimile report confirming such delivery has been successful and the sender mails a copy of such notice to the other party by U.S. first-class mail on such date.

*** * * SIGNATURE PAGE FOLLOWS * * ***

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IN WITNESS WHEREOF, the Parties hereto have duly executed this Host Community Agreement on the date set forth above.

TOWN OF FAIRHAVEN~~FAIRHAVEN~~

BASK, INC.

Name: [Insert Name]

Title: [Insert Title]

Name: Chapman R. Dickerson

Title: CEO

BASK

Bask, Inc.
2 Pequod Road
Fairhaven, MA 02719
Telephone (774)305-4749
E-mail chapman@cometobask.com
www.cometobask.com

January 7, 2018

Mr. Mark Rees
Town Administrator
Town of Fairhaven 40
Center Street
Fairhaven, MA 02719

Mr. Rees,

We have put together a forecast for recreational sales at Bask, Inc. from our Fairhaven location. There is a lot of uncertainty about the total number of recreational dispensaries that will be open at the time of completing our local and State approvals. We think the table below provides a conservative estimate of revenue from recreational sales at Bask, Inc.

Recreational Forecasts for Bask, Inc. Fairhaven

	Year 1		Year 2		Year 3		Year 4		Year 5
	\$ 3,000,000	17%	\$ 3,500,000	7%	\$ 3,750,000	7%	\$ 4,000,000	6%	\$ 4,250,000
HCA - 3%	\$ 90,000.00		\$ 105,000.00		\$ 112,500.00		\$ 120,000.00		\$ 127,500.00
Tax - 3%	\$ 90,000.00		\$ 105,000.00		\$ 112,500.00		\$ 120,000.00		\$ 127,500.00
Total	\$ 180,000.00		\$ 210,000.00		\$ 225,000.00		\$ 240,000.00		\$ 255,000.00

Please do not hesitate to contact me directly,

Sincerely,



Chapman Dickerson
CEO



Local Finance Opinion

LFO-2018-3
September 24, 2018

- TOPIC:** Money from Marijuana Establishments and Medical Marijuana Treatment Centers
- ISSUE:** Accounting treatment of local option excises on retail sales of marijuana for adult use and impact fees and any other payments required or received from marijuana establishments and medical marijuana treatment centers in connection with their operation

This LFO addresses questions and provides guidance regarding the municipal finance law and accounting treatment of money from marijuana establishments and medical marijuana treatment centers. It does not address how payments by those establishments or treatment centers are treated for purposes of host community agreements.

1. What is the general rule about accounting for money received by a city, town or district officer or department?

All money received or collected by a city, town or district from any source is credited to its general fund and can only be spent after appropriation unless a general or special law provides for an exception and different treatment, *i.e.*, a general or special law expressly reserves the revenue stream for expenditure for a particular purpose or allows expenditure by a municipal or district department or officer without appropriation. G.L. c. 44 § 53.

2. What money could a marijuana establishment or a medical marijuana treatment center generate for a municipality?

Municipalities may (1) impose a local excise on the retail sales of marijuana for adult use and (2) negotiate impact fees or other payments under a community host or other agreement with a marijuana establishment or medical marijuana treatment center in connection with its siting and operation in the municipality.

3. How does a municipality impose a local excise on retail sales of marijuana for adult use?

A city or town may impose a local excise on the retail sale of marijuana for adult use by accepting G.L. c. 64N, § 3. Acceptance is by majority vote of the community's legislative body, subject to charter. The maximum excise rate communities may impose is 3%. If a city or town in which a marijuana retailer is located accepts G.L. c. 64N, § 3, all sales by the marijuana retailer that are subject to the state excise on marijuana retail sales will also be subject to the host community's local excise. The excise does not apply to the sale of marijuana or marijuana products by a medical marijuana treatment center. G.L. c. 64N, § 4. See Bulletin 2018-3, Local Excise on Retail Sales of Marijuana for Adult Use.

4. How does a municipality obtain impact fees or other payments from a marijuana establishment or medical marijuana treatment center?

A marijuana establishment or a medical marijuana treatment center that wants to operate or continue to operate in a municipality must execute a community host agreement with the municipality. G.L. c. 94G, § 3(d). The community host agreement must include, but is not limited to, all responsibilities of both parties with respect to the operation of the establishment or center within the municipality. The agreement may include payment of a community impact fee by the marijuana establishment or medical marijuana treatment center in order to mitigate the costs imposed upon the municipality by the operation of the establishment or treatment center within its borders. G.L. c. 94G, § 3(d).

5. Is there an exception to the general rule for money related to the operation of a marijuana establishment or medical marijuana treatment center?

No. There is no general law that establishes a different accounting treatment for (1) revenues generated by the local sales excise on retail sales of marijuana for adult use or (2) payments made under community host or other agreements with marijuana establishments or medical marijuana treatment centers. Therefore, the money belongs to the general fund and can only be spent by appropriation. G.L. c. 44 § 53.

6. How do accounting officers treat money related to the operation of a marijuana establishment or medical marijuana treatment center?

Accounting officers must credit all of the following to the general fund:

1. Collections from local option excises on retail sales of marijuana for adult use and
2. Payments made by a marijuana establishment or medical marijuana treatment center regardless of the characterization of the payments by the parties.

State law governs the municipal finance and accounting treatment of payments made by a marijuana establishment or medical marijuana treatment center, not a host community or other agreement between the municipality and the establishment or treatment center. It is not within our regulatory purview to determine the nature of those payments for purposes of G.L. c. 94G, § 3(d). For municipal finance law purposes, however, payments made by an establishment or treatment center under a host community or other agreement in connection with, or to mitigate the costs imposed by, the location and operation of the establishment or treatment center within the municipality are in the nature of exactions or mitigation payments that belong to the general fund. They cannot be reserved in or credited to a separate gift or grant account, trust fund, revolving fund or other special revenue fund and cannot be spent without appropriation or appropriated as an available fund. They belong to the general fund because no general law establishes a different accounting treatment for money related to the operation of these establishments or treatment centers specifically or from exactions or mitigation payments generally.

We understand that some of these agreements have characterized all or some of the payments as gifts or gifts in the nature of trusts. However, a payment made by a private party to a municipality in connection with a regulated activity, contract or other municipal action is not a gift, donation or grant within the meaning of and for the purposes of G.L. c. 44, § 53A. Therefore, it may not be accounted for in a separate account and spent without appropriation. These payments lack the donative intent that is an essential characteristic of the genuine gift required by that statute. A gift is ordinarily defined as a

voluntary payment of money or transfer of property made without consideration. Although a private party's decision to engage in a regulated activity or contract with a municipality may be one of choice, it is doing so with the expectation of receiving valuable consideration in return, *i.e.*, a privilege or benefit, or some municipal action or authorization. In this case, the execution of a host agreement is a condition precedent to being able to operate or continue to operate as a licensed marijuana establishment or registered medical marijuana treatment center. It is doubtful that any payments the establishment or treatment center agree to make are for a purpose other than to obtain the necessary host agreement. "[T]he nature of a monetary exaction must be determined by its operation rather than its specially descriptive phrase." Emerson College v. Boston, 391 Mass. 415, at 424 (1984), quoting Thomson Electric Welding Company v. Commonwealth, 275 Mass. 426, at 429 (1931).

7. Is there a way under state law that a municipality may dedicate payments made by a marijuana establishment or medical marijuana treatment center for later appropriation for particular purposes?

Yes. A municipality may use a local acceptance option to dedicate all, or a portion of at least 25%, of the collections of the excise on retail sales of marijuana or payments from a community host and other agreement payments to a general or special purpose stabilization fund established under G.L. c. 40 § 5B. For the procedure that must be followed to accept and use this local option, see Section II of Informational Guideline Release (IGR) No. 17-20, Stabilization Funds. Under this option, these collections and payments may be dedicated to stabilization funds because they are not earmarked for a particular purpose under current state law. In addition, the excise on marijuana retail sales is not a locally assessed tax or excise specifically excluded from dedication.

8. How will the Bureau of Accounts treat balance sheet reservations of payments from a marijuana establishment or medical marijuana treatment center when certifying free cash?

The Bureau of Accounts will close balance sheet reservations of payments from marijuana establishments or medical marijuana treatment centers when calculating the available funds of a municipality (free cash). G.L. c. 59, § 23. This is consistent with its policy with respect to similar payments made under host, development or other agreements with other private parties that also belong to the general fund.

9. What agency has regulatory jurisdiction over issues related to the operation of marijuana establishments or medical marijuana treatment centers?

The state's Cannabis Control Commission determines whether marijuana establishments or medical marijuana treatment centers meet licensing or registration standards required to operate. Questions regarding the interpretation of the statute, regulations and other guidance related to the implementation of marijuana for adult use or medical purposes should be directed to the Commission.



Kathleen Colleary, Chief
Bureau of Municipal Finance Law

