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## Osgood host agreement: 20 years, \$100 million

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Town Manager Andrew Maylor presented the Board of Selectmen with a potential host agreement negotiated with Valley Green Grow – for a 1.1 million-square-foot cannabis cultivation and research facility proposed for Osgood Landing – Monday night in front of a meeting room packed wall-to-wall with curious, concerned, eager and frustrated North Andover residents.

If the latest draft of that agreement comes to fruition, the town could see a total of \$100 million over the course of two decades for allowing the facility to operate at the former home of Lucent Technologies.

The agreement calls for MIW, operating as Valley Green Grow, to pay the town \$5 million a year for 20 years, paid in 80 quarterly installments of \$1,250,000. Payments would start on “the first day of the first full calendar quarter month after the first certificate of occupancy issued for any part of the marijuana cultivation facility.”

If the company is given a permit for less than the proposed 1.1 million square feet, its payments to the town would go down accordingly. But if the company is permitted for the full 1.1 million square feet, even if it doesn’t fill that space, it will have to pay the full \$5 million per year.

If Valley Green Grow fails to make a payment, the Board of Selectmen’s letter of non-opposition and host agreement will be pulled.

In addition, the company plans to give \$1 million for a “community fund” to be used for philanthropic efforts. That part isn’t in the host agreements, Maylor said, because donations aren’t allowed.

The \$5 million per year in the host agreement would be put into the town’s general fund, to be appropriated at Town Meeting.

The tension in a room full of both supporters and opponents of the proposed facility was only exacerbated by potential legal uncertainty the agreement could confront. Valley Green Grow is following the permitting path of a medical cannabis operation under the state’s 2014 medical marijuana law. But the state’s 2017 recreational cannabis puts other restrictions on host agreements – such as caps on payments by the company to the community at 3 percent of gross sales and limited to itemized costs incurred by the community – that, if applied, would make such large payments null and void.

Maylor said he doesn’t anticipate that happening, because Valley Green Grow is going through the application process for a medical marijuana license through the Massachusetts Department of Public Health, and under the state’s 2013 medical marijuana law, which does not contain those restrictions on host agreement payments.

“Valley Green Grow is in the pipeline under the medical marijuana statute – They’re a non-profit – and proceeding through the Department of Health process,” Maylor said.

Selectman Rosemary Smedile cautioned against moving ahead with a host agreement that could possibly be deemed illegal in the future.

“It just seems troubling to me that we’re at this stage a few days out and it’s full of uncertainty,” Smedile said. “As we march forward a few days out, and we don’t even know if this is legal.”

If the state comes back and mandates the 2017 law apply to Valley Green Grow, the host agreement and letter of non-opposition would be nullified. But Smedile said putting the project before the voters with a caveat that the host agreement may someday be deemed invalid would be “irresponsible.”

“Why would we do this?” Smedile asked.

Selectman Chris Nobile said the host agreement’s reward to the town outweighs that uncertainty, though.

“There’s a very simple reason why we’re having this kind of discussion right now,” Nobile said. “This is an opportunity that is time based, right? We have one chance to make this decision. So our opportunity here and evaluation we all have to make here is: Do we sit here and say, ‘no we don’t have the answers to this and because we don’t have the answers to this, let’s not go forward?’ In other words, we’re down 10 points and there’s nine minutes to go. Or, do you say, ‘we have faith in counsel, in the negotiation of our town manager in what this opportunity presents?’”

Opponents of the Osgood project have cited uncertainty as a top concern, and the chance that the host agreement and the promised \$100 million it brings could be scrapped some day is unlikely to assuage that. Still in its infancy, Massachusetts’ cannabis industry has very little case law on which to craft legal agreements, and evolving guidelines have clouded the air even more. Proponents of the project, however, see opportunity in that haze.

“I understand, this is not nailed down,” Nobile continued. “But you know what? The best opportunities in life are often defined by what we don’t know as opposed to what we do know. And I think that’s really the challenge that we’re all weighing here. I absolutely agree, I would not want to be in this situation, but we are, and we have to make that decision.”

The entire Board of Selectmen meeting, including public comments, can be viewed on YouTube at <https://www.youtube.com/watch?v=T-Fdin9mP3w&feature=youtu.be>.