



**TOWN OF MILLIKEN  
BOARD OF TRUSTEES  
AGENDA MEMORANDUM**

To: Mayor Tokunaga and Town Board of Trustees		Meeting Date: August 26, 2015	
From: Town Attorney Bruce Fickel			
Agenda Item #	Action: X	Discussion:	Information:
Agenda Title: Consideration of two ordinances placing questions on the November 3, 2015 ballot regarding Marijuana retail sales establishments and Marijuana cultivation and production facilities and the occupational tax for the transactions occurring in the establishments and facilities thereof.			
Attachments: Ordinances with proposed ballot language			

**PURPOSE**

To consider placing on the November 3, 2015 ballot two questions regarding marijuana cultivation, establishments for retail sales and other facilities. The second question is regarding an occupational tax for the business transactions.

**BACKGROUND INFORMATION**

The Town Board has been considering the question of whether to allow the manufacturing, cultivation and sale of marijuana within town limits for some time, as well as whether to impose an occupation tax upon such businesses if they were to be allowed within the town. The town recently conducted a survey of its citizens on this subject, and the Town Board determined that it would like to submit these issues to the citizens as ballot questions at the upcoming November 3, 2015 election.

**BUDGET IMPLICATONS**

It will cost a stated amount per registered voter to put these questions on the November ballot per the Weld County Clerk. The approximate cost is \$3,800. If the Town Board chooses to place a question to increase the sales tax on the ballot, there is no additional cost to put 1 or 2 questions on the marijuana issues on the ballot.

**RECOMMENDED MOTION**

"I move to approve Ordinance No 719 and Ordinance No. 720, regarding the proposed questions as presented for the November 3, 2015 ballot in order for the electors of the Town to determine their desires at the November 3, 2015 election, for the establishment or operation of any medical or recreational marijuana businesses that sell, cultivate, manufacture, prepare, package, purchase, test or otherwise provide for or allow for the use of marijuana or marijuana products and the occupational tax associated with these business activities."

**ORDINANCE NO. 719**

AN ORDINANCE OF THE TOWN OF MILLIKEN, COLORADO, SUBMITTING A BALLOT QUESTION TO THE REGISTERED ELECTORS OF THE TOWN OF MILLIKEN, COLORADO, AT THE COORDINATED ELECTION OF NOVEMBER 3, 2015, WHETHER THE ESTABLISHMENT AND OPERATION OF MEDICAL AND/OR RETAIL MARIJUANA STORES, MARIJUANA MANUFACTURING AND MARIJUANA CULTIVATION OPERATIONS SHALL BE PERMITTED IN THE TOWN OF MILLIKEN, COLORADO

WHEREAS, on November 6, 2012, Colorado voters approved Amendment No. 64, now codified as Section 16 of article XVIII of the Colorado Constitution; and

WHEREAS, the Milliken Board of Trustees has previously established a moratorium on accepting land use applications for medical or retail marijuana stores, marijuana manufacturing and marijuana cultivation operations; and

WHEREAS, the Milliken Board of Trustees desires to let the registered voters of the Town of Milliken ultimately determine whether such marijuana businesses should be permitted within town limits.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN THAT:

**Section 1.** The following Ballot Question shall be submitted to a vote of the registered electors of the Town of Milliken at the coordinated election to be held on November 3, 2015:

SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF THE COLORADO CONSTITUTION, COLORADO STATUTES, COLORADO RETAIL MARIJUANA CODE AND THE TOWN OF MILLIKEN'S ZONING CODE AND ORDINANCES AND ONLY IN LOCATIONS APPROVED AFTER SPECIAL REVIEW AND ALSO SUBJECT TO OTHER REGULATIONS ADOPTED BY THE TOWN BOARD, SHALL THE TOWN OF MILLIKEN ALLOW THE ESTABLISHMENT AND OPERATION OF MEDICAL AND/OR RETAIL MARIJUANA CULTIVATION FACILITIES, MEDICAL AND/OR RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES AND MEDICAL AND/OR RETAIL MARIJUANA STORES TO BE PERMITTED WITHIN TOWN LIMITS?

YES \_\_\_\_\_

NO \_\_\_\_\_

**Section 2.** Submission of the above Ballot Question to the Town's electors shall be at the November 3, 2015 coordinated election. The Milliken Town Clerk is hereby appointed as the designated election official in the manner provided by law.

**Section 3.** All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Town and the officers thereof, directed towards the election and the objects and purposes herein stated are hereby ratified, approved and confirmed.

**Section 4.** The officers and employees of the Town are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this Ordinance.

**Section 5.** That as provided in Milliken Municipal Code Section 2-2-100, requirements for adoption of this Ordinance shall be deemed satisfied if the title of the proposed ordinance is read and the entire text of the proposed ordinance or of any code which is to be adopted by reference is submitted in writing to the Board of Trustees before adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

ATTESTED:

TOWN OF MILLIKEN, COLORADO

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

**ORDINANCE NO. 720**

**AN ORDINANCE OF THE TOWN OF MILLIKEN, SUBMITTING A BALLOT QUESTION TO THE REGISTERED ELECTORS OF THE TOWN OF MILLIKEN, COLORADO, AT THE COORDINATED ELECTION OF NOVEMBER 3, 2015, REGARDING WHETHER THE TOWN OF MILLIKEN'S TAXES SHOULD BE INCREASED THROUGH THE LEVY OF AN OCCUPATION TAX UP TO \$10.00 FOR EACH SALES TRANSACTION BY ANY RETAIL MARIJUANA STORE, ANY RETAIL MARIJUANA CULTIVATION FACILITY AND ANY RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN THE TOWN; AND WHETHER ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX SHOULD BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29 OF THE COLORADO REVISED STATUTES OR ANY OTHER LAW.**

**WHEREAS**, the Town of Milliken, Colorado (the "Town"), is a municipal corporation duly organized and existing as a statutory town under the Constitution and laws of the State of Colorado; and

**WHEREAS**, the members of the Board of Trustees of Town (the "Board") have been duly elected and qualified; and

**WHEREAS**, pursuant to §31-15-501(1)(c), C.R.S., the Town is authorized to license, regulate, and tax, subject to any law of the state with certain exceptions; and

**WHEREAS**, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval for, among other things, any new or increased tax; and

**WHEREAS**, November 3, 2015, is the date of the regular coordinated municipal election in the Town and one of the election dates at which ballot issues may be submitted to the eligible electors of the Town pursuant to TABOR; and

**WHEREAS**, the Board hereby determines that it is necessary to submit to the electors of the Town, at the regular election to be held on November 3, 2015, the question of imposing an occupation tax pertaining to the business of selling retail marijuana and marijuana products in the Town, in the event that the sale of such items is permitted by the Town; and

**WHEREAS**, the Town Clerk (the "Clerk") will conduct the election as an independent mail ballot election (the "election"); and

**WHEREAS**, it is necessary to set forth certain procedures concerning the conduct of the election.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MANCOS, COLORADO:**

**Section 1.** **Ratification of Previous Actions.** All action heretofore taken by the Town and the officers thereof, not inconsistent with the provisions of this ordinance (the "Ordinance") and directed towards the election and the objects and purposes herein stated is hereby ratified, approved, and confirmed.

**Section 2.** **Definitions.** Unless otherwise defined herein, all terms used herein shall have the meanings defined in the Uniform Election Code of 1992, Title 1, Articles 1 through 13, C.R.S., as amended (the "Uniform Election Code") and Title 31, Article 10, C.R.S., as amended (the "Municipal Election Code").

**Section 3.** **Ballot Issue.** The following ballot issue, certified in substantially the form set forth below, is hereby referred to the registered electors of the Town and shall appear on the ballot of the Town at the election with the following ballot title which is set pursuant to §31-11-111, C.R.S.

SHALL THE TOWN OF MILLIKEN'S TAXES BE INCREASED BY \$50,000.00 BEGINNING IN 2016 (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE LEVY OF AN OCCUPATION TAX UP TO \$10.00 FOR EACH SALES TRANSACTION BY ANY RETAIL MARIJUANA STORE, ANY RETAIL MARIJUANA CULTIVATION FACILITY AND ANY RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN THE TOWN; AND SHALL ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29 OF THE COLORADO REVISED STATUTES OR ANY OTHER LAW?

**Section 4.** **Designated Election Official.** The Town Clerk is hereby appointed as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election.

**Section 5.** **Election Contests.** Pursuant to §31-10-1308(2), C.R.S. and §1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

**Section 6.** **Authorization of Other Actions.** The officers of the Town are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Ordinance.

**Section 7.** **Severability.** If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no manner affect any remaining provisions of this Ordinance, the intent being that the same are severable.

**Section 8.** That as provided in Milliken Municipal Code Section 2-2-100, requirements for adoption of this Ordinance shall be deemed satisfied if the title of the proposed ordinance is read and the entire text of the proposed ordinance or of any code which is to be adopted by reference is submitted in writing to the Board of Trustees before adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

ATTESTED:

TOWN OF MILLIKEN, COLORADO

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney