

The joint meeting of the Clare City Commission and Clare City Planning Commission was called to order in the lower level of the Pere Marquette District Library, 185 E. Fourth St., Clare, at 6:00 p.m. by Planning Commission Chair Josh Clark who led with the Pledge of Allegiance. Present were: Planning Commissioners Darren Acton, Glenda Carmoney, Josh Clark, Angie Cozat, Elaine Demasi and Nick Wyman. City Commissioners present were: Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, Karla Swanson, and Bob Bonham. Absent: Planning Commissioners Brett Moser, Kristin Heintz who subsequently arrived at 6:26 pm, and Jason Lowe who subsequently arrived at 6:32 pm. Also present were; Steve Kingsbury, Acting City Manager; Jaynie Hoerauf, City Attorney; and Diane Lyon, City Clerk.

**APPROVAL OF JOINT AGENDA:**

Moved by Commissioners Wyman and Swanson second by Commissioners Cozat and Murphy to approve the agenda. Ayes: All. Nays: None. Absent: Brett Moser, Kristin Heintz and Jason Lowe. *Motion approved.*

**UNFINISHED BUSINESS:** None.

**NEW BUSINESS:****MEDICAL MARIHUANA DISCUSSION**

Based on discussions at recent City Commission and Planning Commission meetings, we've asked our City Attorney to develop a list of options to use as an outline for discussions by both Commissions to determine what changes, if any, should be made to our current ordinance codes, policies, rules, practices, and processes for medical marihuana (MMJ) facilities in Clare.

City Attorney Hoerauf led the discussion by providing commissioners with four options to consider regarding the current medical marihuana provisions of the city. Attorney Hoerauf recommended the Commissioners take public comment regarding this topic and then deliberate amongst themselves to determine whether changes should be made to the current Medical Marihuana Ordinance Code.

Motion to open a public comment period made by Demasi, second by Wyman. Voice vote: Ayes: All. Nays: None. Absent: Kristin Heintz, Brett Moser and Jason Lowe.

**Public Comment:**

Tom Kunse, business owner at 805 Industrial Drive, provided comment. Mr. Kunse does not oppose cultivation or processing centers because of the lighting that will be used, the security, and the low traffic it will create but he did voice opposition to allowing provisioning centers in the industrial park, arguing that retail is not a good fit within an industrial setting due to a lack of sidewalks, no parking on the road, and increased traffic.

Steve Stark, IDC Representative, offered that the consensus of the IDC echoed Mr. Kunse's sentiments. As a property owner within the Industrial Park, Steve agreed that provisioning centers should not be located within the industrial park. He further offered that many communities utilize their zoning to reflect the allowed use, i.e. industrial in industrial zones and

provisioning (centers) in commercial zones. Steve disclosed that he will be renting (industrial) property in the Park to one of the groups that will be taking on a medical marijuana industrial type use.

Marv Heintz owns a business at 750 Industrial Drive. Marv agreed with Tom's comments. Marv noted that there are other retail locations, commercial locations, to place provisioning centers (outside the industrial park). When asked about sales at his business (in the IP) Marv offered that only a small percentage of his business comes from retail sales; it is not comparable to a store front (provisioning center). 95% of his business comes from outside sales with 2-3 trucks operating out of the Clare facility for deliveries on a daily basis.

Mayor Humphrey and Commissioner Wyman each stated that they have purchased items directly from various businesses within the industrial park. Therefore, retail sales are already occurring within the industrial park.

Ron Kunse, also a representative of the IDC, remarked that those retail sales are incidental in the industrial park.

Suzie Simons is Head of Patient Care at a facility (dispensary) in Lansing. Suzie offered that she keeps up to date with city council meetings in Lansing and board meetings for LARA (Michigan Department of Licensing and Regulatory Affairs is the agency in charge of regulating medical marijuana licensing in the State). She offered that an industrial area is an odd place (for a provisioning center) but also offered that it (dispensary) is a pretty quiet operation with many of her patients being "older" people. The patients who come in are seeking relief of their symptoms; it is not a place where people go to get "high". Suzie's goal was to dispel the stigma surrounding medical marijuana, informing commissioners that the operations are safe, very professional, and very clean. The only people allowed in (the dispensary) are those with valid certification. Suzie offered that due to how the industry is currently structured there are people who travel from far away to obtain their medicine, coming from places such as Grand Rapids where there are no facilities, as well as local patients from the Lansing area. On a very busy day their establishment serves around 150 patients and on a slow day they serve around 70 patients.

Joey Kejbou, attorney for Green Day, LLC., offered that his clients were denied a zoning variance by Zoning Board of Appeals (ZBA) to house a provisioning center on commercial property at the corner of West Fifth Street and Industrial Drive but would welcome the opportunity to move to a commercial location. The ZBA's denial was two-fold; the property in question is identified as commercial use on the Future Land Use Map and the site did not meet the distance requirements from residential property.

Motion to close the public comment period made by Wyman, second by Acton. Voice vote: Ayes: All. Nays: None. Absent: Brett Moser.

Commissioner Demasi provided the historical background of how the Planning Commission came to determine placement of (medical marihuana) operations. Approximately 5-6 years ago the topic of medical marihuana came up to the Planning Commission. At that time it (MMJ) wasn't regulated and it wasn't going to be licensed by the State so they began discussions on where to place caregiver facilities. The Planning Commission spent a great deal of time deliberating on (MMJ) placement within the community; they did not want them near schools or churches and they wanted to contain the operations in one area. In addition, Commissioner Demasi noted that the Planning Commission had discussed making changes to the current (MMJ) Ordinance at the last four Planning Commission meetings.

Chairman Clark mentioned that it was interesting to him that both the industrial park business owners and the MMJ facility representatives did not in favor placing provisioning centers in the industrial park. He then posed the question, "where would you put it (MMJ)? Chairman Clark stated that if they changed the Code it would require a lot more community input and if they allowed them (provisioning centers) in the downtown district, they would be having this same conversation with those business owners. Additionally, placing them (MMJ) in the industrial district was somewhat of a limiting factor due to distance requirements from other MMJ facilities and residential properties. Chairman Clark offered that in considering the location for these facilities they (PC) determined that these are not the types of businesses where there is a great need for sidewalks, patients or caregivers go in, get their medicine, and leave when they've finished their business. Parking would be sufficient at each of these locations due to the (Ordinance) requirements. While there may be some increased traffic the Planning Commission determined that it would not be significant enough to cause a problem.

Commissioner Wyman stated the roadway (Industrial Parkway) was considered in determining placement for these facilities; the consensus was that the roadway could handle additional traffic. He also noted that the Planning Commission had queried each of the (MMJ) businesses to determine how taxing operations would be on the infrastructure in that district.

Commissioner McConnell offered that she understands the IP business owners concerns to be about operating a retail business in an industrial district rather than commercial district; it is not about the number of people and traffic.

Acting C/M Steve Kingsbury pointed out that because there is residential in all of the other (zoning) districts, including the downtown, the 1,000 foot distance requirement would have to be reconsidered if the zoning district was changed (for MMJ facilities).

Commissioner Wyman offered that these (provisioning centers) are unique types of businesses and it made sense to place them there (IP), noting that the Planning Commission has no intention of pushing other types of retail into the industrial park. The industrial park is self limiting as to how many (MMJ facilities) are allowed.

Commissioner Demasi proposed a limit on how many provisioning centers are allowed in the city now that there are two provisioning centers which have been approved, thus there will be competition.

Acting C/M Steve Kingsbury noted that if the Planning Commission approves the Special Use and Site Plans coming before them tonight, the maximum limit for all (MMJ) facilities will be met in that area unless a business is willing to build a road far enough to the south (in that same area) due to the 1,000' (residential) and 500' (MMJ facility) distance requirements.

Chairman Clark pointed out that if a business decided to annex and build out infrastructure in one of the outlying areas (UCA or township), the City would have the added expense of maintaining that roadway and infrastructure. If the State approves recreational it (MMJ) in the future, it would still be limited to a specific area. Chairman Clark further stated that any future revisions to the Ordinance Codes will not affect those (MMJ) businesses already approved to operate within the industrial park. If a new use were proposed for the property and it was not consistent with those of former businesses operations, they would be required to comply with the revised code. If the Planning Commission does make changes to the code it will be a long and arduous process to move provisioning centers to another zoning district.

Steve Stark asked Commissioners to bear in mind that this (industrial park) is a relatively small area which provides a large contribution to the overall tax base and when wooing a company to come in and build a \$10M dollar development, everything matters; potential developers will see this (provisioning centers) as a cross use that does not respect the intent of zoning.

Chairman Clark provided the audience additional information on the Planning Commission's considerations when discussing locations for these facilities. The land use and processing of the product were taken into consideration; both of these things lend themselves to industrial zoning because there are large buildings with some type processing activity and therefore they are suited for an industrial setting. The provisioning activity is a very small portion of their business. If the (MMJ) operation has met all of the criteria currently in place, that business should be allowed. There were hundreds of hours put in to considering where these facilities should go and while the Planning Commission could consider limiting how many facilities are allowed in the city, moving provisioning centers to a different zoning district will take a significant amount of time.

Chairman Clark thanked the audience for their participation offering that their views will be taken into consideration in future planning for the city.

Attorney Hoerauf asked the commissioners to remain on track, deliberate amongst themselves, and determine if there is direction they wish to provide at this time.

Commissioner Demasi asked for a decision from fellow commissioners at tonight's meeting to determine whether they will limit provisioning centers.

Commissioner Acton questioned whether a decision should be made to move the provisioning centers to an entirely new district. However it was explained that consideration of a new zoning district at this time would have no effect on the two provisioning centers previously approved to operate within the industrial park.

Green Day received approval from the Planning Commission to operate a provisioning center and cultivation facility in the industrial park. Mr. Kejbou stated that they anticipate that approximately 5%-10% of their gross revenue will be derived from retail sales while the remaining revenue will come from wholesale operations. The provisioning center is expected to serve 30-50 patients per day in Clare which is a much lower number than that of the Lansing facility that Suzie Simons works at due to a lower population to draw from and the number of additional provisioning centers that will be opening once the State issues licenses.

Commissioner Wyman noted that the approved special uses are only for medical marihuana. The Planning Commission would still have the authority to decide whether recreational marihuana would be allowed in the City should it be legalized in the State. MMJ facilities are large industrial type buildings that could be used for other industrial uses if the (MMJ) operation vacated the building. He further offered that (MMJ) operations are largely wholesale operations. Nick offered that if 85-90% percent of (MMJ) revenue comes from growing or processing operations (industrial processes) with a small retail location on site, it is no different than the retail sales of other existing businesses in the industrial park; If the City banned retail sales within the industrial districts none of the other businesses would be able to sell on site.

Attorney Jordan Rasaam interjected that Total Holistic Cultivation has no intention of operating a provisioning center at their facility.

Jaynie offered that the Planning Commission could make a motion to initiate a moratorium while they work out details of the provisions for code amendments or a commissioner could make a motion to limit provisioning centers.

Motion by Planning Commissioner Demasi second by Planning Commissioner Lowe to recommend limiting the number of provisioning centers that will be allowed to operate within the city to two facilities. Roll Call Vote: Ayes: Acton, Carmoney, Clark, Cozat, Demasi, Heintz, Lowe, and Wyman. Nays: None. Absent: Brett Moser. *Motion Approved.*

#### **ADJOURNMENT OF CITY COMMISSION**

Motion by City Commissioner McConnell second by City Commissioner Murphy for the City Commission to adjourn. Voice vote: Ayes: all. Nays: none. Adjourned at 6:53 p.m.

#### **NEW PLANNING COMMISSION BUSINESS:**

##### **SITE PLAN PROPOSAL-TOTAL HOLISTIC CULTIVATION**

The City of Clare has received a site plan application from Lapham's Engineering on behalf of Total Holistic Cultivation (THC) outlining a proposal to construct two new 28,475sf industrial buildings and three 10,000sf green houses on vacant property being purchased in the City's

South Industrial Park. The new buildings will house a Medical Marijuana Grow Facility and a Medical Marijuana Processing Facility.

The City Staff conducted a review of all the aforementioned plans with Lapham's Engineers and the attorney and the two partners of THC, a down-state investment company, and their attorney on October 11th. The proposed plans and development meet or exceed the City's current zoning (to include lighting, parking, and landscape) and building requirements. The City Staff offers its full endorsement of the project and unanimously recommends the Planning Commission approve the site plan as proposed.

The Clare Industrial Development Corporation (IDC) reviewed the proposed plans and new development and endorsed and recommended approval of the proposed construction project.

The City Planning Commission is the City's approval authority of the proposed project. To facilitate consideration of the site plan by the Planning Commission, public notice of the proposal has been published and notice to all residents and businesses within a 300' radius has been mailed.

The Planning Commission is required to hold a public hearing related to the proposed site plan. As reflected above, proper notice regarding the site plan application has been made by the City.

Subsequent to the hearing, the Planning Commission will be asked to formally consider the site plan and render a decision in respect to approval or disapproval.

Motion by Commissioner Acton second by Commissioner Wyman to open a public hearing. Ayes: All. Nays: None. Absent: Brett Moser. *Motion approved.*

Public Comment: The following statement was provided by email from Eric Kinaia to the City Clerk and was read aloud at this time. Additionally, a copy of this statement was provided to each of the Planning Commissioners and each of the City Commissioners prior to the start of their joint meeting.

*As a permit holder for medical marijuana business in Clare, we are keenly interested in making sure all your concerns are well-understood and fully addressed. Patients deserve access to medicine, free from the false stigma that medical marijuana increases drug use, or brings crime, or is a nuisance. None of those assumptions is correct, and I respectfully caution the commission and the council to make any decision about provisioning centers - or any other license - based on erroneous stereotypes. I also respectfully invite any commission or council member to my facility in Lansing, where you will find a professional and well-educated staff, a spotless store, and patients who represent their community. What you will not find is drug use of any kind, violence, property crime, loitering, or anyone under the age of 18.*

*If you have any questions, I encourage you to reach out and contact my lawyer, Joslin Monahan, at [jmonahan@hakimlaw.com](mailto:jmonahan@hakimlaw.com).*

Jordan Rassam presented details of the plan to the Commission. The permit request is for a Class C growing license. Operations are expected to create approximately sixty, \$15-\$20 per hour jobs with benefits and employees will be hired from the local area. The group has requested outside assistance for greenhouse design but will likely use local contractors to build the facilities. A special type of glass is used in building these types of facilities.

Alan Craighead from Lapham's provided additional information to the Commissioner. The site will be fully landscaped due to separation requirements between commercial and industrial property. An access road has been provided for fire department access. Commissioner Acton noted that there are more handicap parking spaces than would be needed for this type of operation. Alan intends to change four of those spaces to standard parking spaces.

They intend to break ground by June of 2018 and complete the project within a year. There are 3 greenhouses as part of phase 1 as well as one of the buildings dedicated for processing. A firewall is required in the processing facilities due to the size of the facility. Co2 will be used in the extraction process rather than a combustible compound. Colors have not been determined for the façade but they are amenable to recommendations from the Commission. There will be no signage indicating what the operations will be.

Motion by Commissioner Heintz second by Commissioner Cozat to close the public hearing. Ayes: All. Nays: None. Absent: Brett Moser. *Motion approved.*

Motion by Commissioner Acton second by Commissioner Demasi to approve the Site Plan Application by adoption of amended Resolution 2017-029PC. Roll call vote: Ayes: Darren Acton, Elaine Demasi, Glenda Carmony, Josh Clark, Angie Cozat, Jason Lowe, Nick Wyman and Kristin Heintz. Nays: None. Absent: Brett Moser. *Motion approved.*

### **SPECIAL USE PERMITS-TOTAL HOLISTIC CULTIVATION**

The City has received Special Use Permit Applications from Lapham Associates on behalf of Totally Holistic Cultivation to allow the issuance of two specific Medical Marijuana licenses by the City of Clare: a processing center license and a Class C [1,500 plants] license to allow the company to operate multiple Medical Marijuana Facilities on property they are purchasing on Clare Industrial Parkway in the City's South Industrial Park. The Clare City Planning Commission is the approval authority for the special use permits.

THC has completed the required Special Use Checklist and provided Supplemental Answers related to Compatibility, Environmental Impact, Floor Plans, a Narrative of Operations, and a Statement of Effect on Public Services/Resources. The City Staff has reviewed the Check List and the Supplemental Answers provided and found no fault or error in these documents and takes no exception to the responses offered.

The City published notice in a local newspaper and mailed notice to all property owners within a 300' radius of the proposed site. As the Clare Industrial Development Corporation (IDC)

oversees all industrial park operations, the permit applications were considered by the IDC. The IDC unanimously endorsed and recommended approval of the special use permits for the grow facility and the processing center as they consider them totally compatible with operations within the industrial park.

Prior to consideration, deliberation, and decision regarding this matter, the Commission is required to hold public hearings related to each of the special use permits; Proper notice regarding the special use permit application has been made by the City. The City has also mailed notice to all property owners within a 300' radius of the site of proposed Medical MJ facility.

Subsequent to the respective hearings, the Planning Commission will be asked to formally consider each of the Special Use Permit Applications and render a decision in respect to approval or disapproval for each.

Motion by Commissioner Lowe second by Commissioner Carmoney to open a public hearing. Ayes: All. Nays: None. Absent: Brett Moser. *Motion approved.*

Public Comment: None.

Motion by Commissioner Wyman second by Commissioner Acton to close the public hearing. Ayes: All. Nays: None. Absent: Brett Moser. *Motion approved.*

Motion by Commissioner Acton second by Commissioner Demasi to approve the Special Use Permits by adoption of amended Resolutions 2017-030PC and 2017-031PC. Roll call vote: Ayes: Darren Acton, Elaine Demasi, Glenda Carmoney, Josh Clark, Angie Cozat, Jason Lowe, Nick Wyman and Kristin Heintz. Nays: None. Absent: Brett Moser. *Motion approved.*

#### **ADJOURNMENT**

Moved by Commissioner Acton second by Commissioner Carmoney to adjourn. Ayes: All. Nays: None. Absent: Brett Moser. *Motion approved.*

Meeting adjourned at 7:34 p.m.

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Diane Lyon, City Clerk