

The regular meeting of the Clare City Commission was called to order at 6:00 p.m. in the City Commission Chambers of Clare City Hall, 202 West Fifth Street, Clare, Michigan by Mayor Pat Humphrey who led with the Pledge of Allegiance. Present were: Commissioners Bob Bonham, Pat Humphrey, and Maegan Jenkins. Absent: Carolyn (Gus) Murphy. Also, present: Jeremy Howard, City Manager; Shannon Sirpilla, City Treasurer; Diane Lyon, City Clerk; and Dave Saad, Police Chief.

2. CONSENT AGENDA:

Moved by Commissioner Bonham second by Commissioner Jenkins to approve the items listed with an asterisk (*) (Agenda, Minutes, Department Reports, Communications, Professional Development, First Reading of Ordinance 2023-001, and Bills) that are considered to be routine by the City Commission. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, and Maegan Jenkins. Nays: None. Absent: Carolyn (Gus) Murphy. *Motion Carried.*

3. *APPROVAL OF MINUTES:

Approved by Consent Agenda.

4. *APPROVAL OF AGENDA:

Approved by Consent Agenda.

5. PUBLIC COMMENT: None.

6. UNFINISHED BUSINESS: None.

7. NEW BUSINESS:

A. PRESENTATION OF FISCAL YEAR 2021/2022 AUDIT REPORT

The public accounting firm of Andrews, Hooper & Pavlik (AHP) of Midland, Michigan conducted an independent audit of the City of Clare's financial records for the City's fiscal year ending June 30, 2022. A qualified representative from the firm is scheduled to publicly present the results of the audit to the Clare City Commission at its regularly scheduled meeting on January 16, 2023. The audit results are unqualified meaning that no adverse findings were discovered or noted during the course of the independent audit. A draft copy of the complete audit report is attached for your review.

The Treasurer/Finance Director, City Clerk, and City Manager will have each reviewed the audit report prior to the meeting and will have formally acknowledged the results in writing.

The City Commission is asked to formally approve the audit findings and results as presented by a qualified senior staff member of the public accounting firm Andrews, Hooper & Pavlik.

The audit report was presented by Duane Reyhl and Danielle Hoppe of Andrews, Hooper & Pavlik, PLC. An extension was filed by the City (12/12/22 at the request of AHP) because AHP was not able to complete the audit prior to December 31 (due to the absence of some of their employees). The extension was denied therefore Ms. Hoppe contacted the Department of Treasury and was informed that there would be no consequence to the city as long as the audit was filed within 30 days.

Motion by Commissioner Bonham second by Commissioner Jenkins to accept and approve the FY21/22 audit by the adoption of Resolution 2023-007. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, and Maegan Jenkins. Nays: None. Absent: Carolyn (Gus) Murphy. Motion Carried.

B. APPOINTMENT OF SUCCESSOR TO THE CITY COMMISSION

Commissioner John Myers has tendered his resignation due to a change of residency. Section 5.4 of the City Charter stipulates the City Commission shall select and appoint, within 30 days, a successor to serve the balance of the term of a vacant City Commission seat.

The process and method used by the City Commission to select a successor is mute in the City Charter, thus is left to the discretion and judgment of the Commission.

The City maintains a list of qualified residents who have expressed interest in serving on the City's commissions, boards, and committees by submitting an application to serve. Mrs. Kimberly Horwood-Bussell, Mr. Karl Hauser, and Mr. Pete Spitzley are all city residents who meet the qualifications to serve as City Commissioner and have applied for consideration for appointment.

The City Commission is asked to review each of the applications and then subsequently appoint one of the City residents who have expressed interest in serving as a successor to Commissioner Myers or to provide guidance to the City Staff with respect to its desires in creating a pool of candidates for consideration.

Note: The 30-day required timeframe for appointment per the charter would require a special meeting of the City Commission if an appointment is not made at the January 16th meeting.

Mayor Humphrey voiced appreciation to all applicants interested in filling the vacancy left by Mr. John Myers.

Motion by Commissioner Humphrey second by Commissioner Bonham to appoint Kimberly Horwood-Bussell to the Clare City Commission by the adoption of Resolution 2023-008. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, and Maegan Jenkins. Nays: None. Absent: Carolyn (Gus) Murphy. Motion Carried.

C. *BOARD & COMMITTEE APPOINTMENT-MR. KEN HIBL, PLANNING COMMISSION

Approved by Consent Agenda-Resolution 2023-009.

D. *BOARD & COMMITTEE APPOINTMENT-MR. STEVE HAYNAK & MRS. CAROL SANTINI, CEMETERY ADVISORY BOARD

Approved by Consent Agenda-Resolution 2023-010.

E. *BOARD & COMMITTEE APPOINTMENT-MR. SETH SHARP, LOCAL DEVELOPMENT FINANCE AUTHORITY

Approved by Consent Agenda-Resolution 2023-011.

F. ORDINANCE 2023-001-MARIJUANA

The City of Clare permits licensure of all categories of medical marihuana businesses (grow, process, transport, certification, and provisioning) as well as the same for adult-use recreational marihuana businesses with the exception of recreational sales within its jurisdictional boundaries as allowed by the State of Michigan and city zoning regulations.

Since the adoption of these ordinances, there have been very few issues with the ordinance. There have been a very small number of “complaints” of smell from other businesses in the Industrial Park. After meeting with the licensees as well as one of the business owners who has expressed concerns regarding the smell from time to time, further discussions were held with the City Attorney and the City Commission in late 2022. At that time, the City Commission asked City staff to work with the City Attorney to draft an ordinance amendment that would clean up the language regarding the enforcement of smell. The proposed intent is to retain language which mandates filtration and odor control measures while minimizing Code Enforcement requirements. Additional amendments include language to prohibit greenhouses; to improve the administrative processes by creating one annual renewal date for all licenses; and to allow city staff to approve the Special Use permits administratively for annual renewals, change of name, transfer, or change of ownership; the Planning Commission would still approve the Special Use Permits/Site Plans in relation to new facility construction, additions to existing facilities, façade improvements of any sort, and new licensing.

The approval authority for all ordinance changes in the City is the Clare City Commission. But in matters related to Chapter 52 (Zoning), the City Planning Commission is required to provide a formal recommendation to be considered by the City Commission in its discussions regarding the proposed ordinance changes.

The City’s Planning Commission held a public hearing on January 11, 2023, to consider the ordinance amendment. The city received and shared one public comment regarding the proposed ordinance amendment with the Planning Commission. Following discussion and consideration of the proposed Ordinance amendment, the Planning Commission made the decision to recommend approval of Ordinance 2023-001 to the City Commission by the adoption of 2023-005PC.

All ordinance code amendments require the approval of the Clare City Commission. And all ordinances require two readings and approval of the Clare City Commission subsequent to a public hearing. The required public notice announcing the hearing has been published. Subsequent to the conduct of the hearing, the Commission has the option of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the proposed ordinance.

The City Commission is asked to conduct the required public hearing, consider and discuss the proposed new ordinance, and direct a First Reading of that proposed Ordinance.

Motion by Commissioner Jenkins second by Commissioner Bonham to open the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, and Maegan Jenkins. Nays: None. Absent: Carolyn (Gus) Murphy. *Motion Carried.*

Public Comment: Mr. Tom Kunse provided public comment via email opposing the Ordinance amendment.

Diane,

The proposed ordinance will not stop the pot stench from spreading to adjoining properties. It is vague and riddled with ambiguous terms. Jaynie did not do well on the original ordinance, and this is certainly no improvement.

Specifically:

- 27-96 (d)*
- i. Define “sufficient”*
- ii. Odor is listed as being one of the items prohibited, but that is contrary to what is listed later in the ordinance.*
- 27-97 (a)*
- i. Define “reasonable”*
- ii. Define “comfortable use”*
- iii. Define “enjoyment”*
- a. These are ambiguous and make the entire section unenforceable.*
- 27-97 (b)*
- i. Define “objective”*
- ii. There are six factors listed, but a decision-making process is not defined.*
- iii. Do a certain number of events have to occur?*
- iv. A certain order of events?*
- v. Are certain events more important than others?*
- vi. The entire subsection is a word salad of incoherence, and it appears to be incomplete.*
- 27-97(c)*
- i. Define “is designed to contain” This could mean anything. Designed by whom to what standards?*
- ii. What happens if the design is bad?*
- iii. Does the City have the authority to require a design change if it is insufficient as determined by the mess in 27-97 (b)? We don’t know as that is not defined.*

Either the City finds the fortitude to enforce a simple ordinance “No smell off the property” or nothing will change. This ordinance would be ineffective and do nothing but allow the issues we are experiencing to continue. I genuinely hope the City puts forth a better effort than this poorly worded and likely useless ordinance.

Please share with the City Commission and Planning Commission members.

Thank you,

Your humble (but disappointed) public servant,

Tom Kunse

Motion by Commissioner Jenkins second by Commissioner Bonham to close the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, and Maegan Jenkins. Nays: None. Absent: Carolyn (Gus) Murphy. *Motion Carried.*

8. TREASURER’S REPORT: The Treasurer provided a report to the Commission.
9. *DEPARTMENT REPORTS: *Approved by Consent Agenda.*

10. CITY MANAGER'S REPORT

DDA Meeting. The DDA held its monthly meeting on January 12. The items and discussion topics on their agenda included:

- Review and approval of Bylaws
- Discussion regarding dumpster enclosures
- Possible addition to the existing enclosure on 5th Street in the current hospital parking lot
- Cleanup of old enclosure in 4th street parking lot
- Discussion with Doherty Hotel regarding their new sign that was approved and the future replacement of awnings and canopies on the building

Planning Commission Meeting. The Planning Commission had several items on its last agenda which included:

- Elected 2023 Chairperson – Jason Lowe
- Elected 2023 Vice Chairperson – Josh Clark
- Annual review of bylaws
- Approval of the 2022 Annual Report – will be presented to the City Commission at the joint meeting
- Review and Recommendation of Ordinance 2023-001 to update the marijuana ordinance regarding enforcement of odor and other various administrative changes.
- Continued discussion of Ordinance Amendment to Section 52-308 – Vehicle Storage and Parking. It was a good discussion and lasted several hours. Further discussions/meetings will still need to take place to draft an ordinance that will hopefully address many of the issues that the City Commission asked them to look at.

Planning Commission / City Commission Annual Joint Meeting: Every year the City Commission and Planning Commission hold a joint meeting to review the Planning Commission's Annual Report for the previous year and discuss other topics of interest. After talking with the Planning Commission at their January 12 meeting, I would suggest that the City Commission attend the night of the Planning Commission meeting as has been done for the last several years. Their next two meeting dates are Wednesday, February 8th at 6:30 p.m. and Wednesday, March 8th at 6:30 p.m. I recommend, as in the past, that we meet at 5:30 p.m. on one of those two next meeting nights of the Planning Commission so that the joint meeting can be completed in the hour before their regular meeting. The approved 2022 Planning Commission Annual Report is provided for you to review for the joint meeting.

Mayor Humphrey announced that he will be out of town on March 8, thus the February 8 meeting is the preferred date for the joint meeting.

Lake Shamrock Dredging Project. As mentioned at the last meeting, the city did receive a permit to dredge the first section of Lake Shamrock (Year one section). We have been building a haul road at the airport for the spoils trucks and have started moving material at the West end of the lake. So far, we have been hauling the material with city trucks, but we will begin utilizing our contract with Heintz very soon which will speed up the process as we will be using 40-yard trucks instead of 5-yard trucks. This is all exciting news and I am glad we are able to begin the process again. Continued efforts are being made with EGLE on retesting materials and obtaining new permits, along with the preparation of the

RFP for hydraulic dredging which should go out this month. Photos of the excavator barge at work were provided with this report.

City Website. More exciting news. We have launched a new City of Clare website that has been some time in the making. I mentioned a while ago that we had secured our cityofclare.gov address and that is the new address for the website (www.cityofclare.gov). The old address of cityofclare.org still works and will redirect you to the .gov address. This new version is a modern clean update and most importantly will allow staff to be able to make quick changes if need to the website ourselves so that we don't have to send them and wait for the update to be made by a third party.

Verizon Cell Tower. Update –The linemen continue to work on the antenna regularly and as far as I know we are still waiting on the fiber to be run so that Verizon can finalize and activate the antennas.

11. *COMMUNICATIONS: *Approved by Consent Agenda.*
12. EXTENDED PUBLIC COMMENT: None.
13. COMMISSION DISCUSSION TOPICS: None.
14. *APPROVAL OF BILLS: *Approved by Consent Agenda.*
15. *PROFESSIONAL & EDUCATIONAL TRAINING OPPORTUNITIES: *Approved by Consent Agenda.*
16. ADJOURNMENT: Motion by Commissioner Jenkins second by Commissioner Bonham to adjourn the meeting. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, and Maegan Jenkins. Nays: None. Absent: Carolyn (Gus) Murphy. *Motion Carried.* Meeting adjourned at 6:43 p.m.

Pat Humphrey, Mayor

Diane Lyon, City Clerk