

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
FEBURARY 4, 2019**

A regular meeting of the Lapeer City Commission was held February 4, 2019 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

ROLL CALL

Present: Mayor Sprague.

Commissioners Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Absent: None.

City Manager: Dale Kerbyson, present.

City Attorney: Michael Nolan, present.

Mayor Sprague led the Pledge of Allegiance.

AGENDA APPROVAL

24 2019 02-04

Moved by Bennett. Seconded by Bostick-Tullius.

Approve the Agenda for February 4, 2019 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

MINUTES

25 2019 02-04

Moved by Marquardt. Seconded by Osentoski.

Approve the minutes of the Regular and Closed meetings held January 22, 2019 as presented.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

Minutes from various Boards and Commissions were received into record.

PUBLIC COMMENTS

Mayor Sprague read the following comments two into the record that were received from individuals who could not attend tonight's meeting:

Linda Brosz, a City Resident, could not make this evening's meeting but wanted to make a public comment that she does not want the City to opt into recreational marihuana, she feels it is not needed in the City.

My name is Daren Mclaughlin and I am a local businessman and father of former Lapeer HS students. I would like to go on record stating my strong objection to the City of Lapeer opting into recreational marijuana. Additional access to this drug, I feel, will be a major detriment to the City of Lapeer.

Gary Cooley, Turtle Lake Road, North Branch, in favor of medical and recreational marihuana; wounded in Vietnam and deals with chronic pain and PTSD; has been on opiates and other drugs trying to suppress pain; hopes for dispensaries in Lapeer County, currently goes to a pain clinic in Flint; uses two medical marihuana oils and a cream that helps his chronic pain and allows him to maintain a level of life he wouldn't be able to otherwise; closest dispensary that carries one of the oils is in Grayling; shouldn't have to drive 150 miles to get it; encouraged all to read the editorial in yesterday's Lapeer County Press; recreational marihuana is legal, cannot stop people from using.

Janet Adams, Baldwin Road, gave invocation.

Tom RaCosta, retired Detroit firefighter, responded to a lot of accidents; many caused by alcohol, others by marihuana; marihuana of today is not the marihuana of the sixties, its way stronger; concerned about young people; hopes Commission makes the right decision.

Kim Guzek, N. Calhoun, recently moved back to the City, has two kids in middle school; it's hypocritical to tell kids to stay away from alcohol and drugs, then when kids turn eighteen, tell them to do whatever they want; can't stop what the state decides; wants her kids to stay in Lapeer; kids will go home to parents and families on drugs and grow up to become parents on drugs; contradictive to the mission statement of the community and state; prays state wakes up and reconsider what it is doing.

Marlana Swindell, Pleasant Street, is a parent who uses marihuana medicinally; don't know what the State is going to do; no reason to act immediately; City is not saying yes if they don't say no; City doesn't have all the information to make a decision; thirty three liquor licenses in the City; most domestic violence calls involve alcohol; crashes have gone down in states that have legalized recreational marihuana, will bring information with her next time; wait and see what the rules are.

CONSENT AGENDA

26 2019 02-04

Moved by Bennett. Seconded by Atwood.

Approve the Consent Agenda for February 4, 2019 resulting in the following:

1. Special Event Request from Lapeer Intermediate School District, Great Start Collaborative Family Fun Day, June 26, 2019, 10:00 AM - 2:00 PM, North Court Street.
2. Special Event Request from Lakestone Bank & Trust, Lakestone Bank's 2019 Ice Cream Social; June 21, 2019, 11:30 AM – 2:00 PM, Farmers Market Pavilion.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

BILL LISTING FOR FEBRUARY 4, 2019

27 2019 02-04

Moved by Marquardt. Seconded by Osentoski.

Approve the Bill Listing for February 4, 2019 in the amount of \$1,580,478.87.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARINGS

None.

ADMINISTRATIVE REPORTS

Audit Report: Layton & Richardson PC

28 2019 02-04

Moved by Bostick-Tullius. Seconded by Marquardt.

Approve the Audit Report and accept Audit Recommendations for Year Ending June 30, 2018 as presented by Layton and Richardson PC.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

Ordinance Amendment - Chapter 19 (Offenses Against Public Peace, Safety and Morals Ordinance), Section 19.29

29 2019 02-04

Moved by Bennett. Seconded by Bostick-Tullius.

Approve an ordinance amendment to Chapter 19 (Offenses Against Public Peace, Safety and Morals Ordinance), Section 19.29 of the General Ordinances of the City of Lapeer.

THE CITY OF LAPEER ORDAINS:

19.29 Possession and/or Use of Marihuana

To be deleted in its entirety.

ON ROLL CALL VOTE:

Ayes: Atwood, Marquardt, Bennett, Osentoski, Bostick-Tullius.

Nays: None.

Absent: None.

MOTION CARRIED.

Recreational Marihuana Discussion

Commissioner Bennett: is there an urgency for the City to decide to opt-out, does the City have to opt-out to not be opted-in; Attorney Nolan responded the City must act to opt-out, which is different than medical marihuana; standard thinking is that opt-out must be done by ordinance; no urgency right now.

Commissioner Osentoski: there are 6,000 voters in the city, 2,800 voted in November, only 27% of voters in favor of recreational marihuana; doesn't think all people are represented in this vote.

Commissioner Bostick-Tullius: suggested having a public hearing before making a decision; people on both sides of the issue want to be heard; thinks a public hearing will get more of a turnout and the Commission can get a better feel of what the citizens want. Commissioners Bennett and Marquardt agreed.

Commissioner Marquardt: received information tonight and would like time to review before making a decision; residents voiced their opinion on Election Day, don't get chance to re-do an election.

Commissioner Atwood: roughly 5% of municipalities opted in to medical marihuana; City is facing legal issues; low amount of opt-in communities creates a "gold rush" model due to the limited amount of space to operate; puts municipalities between a rock and a hard place; not much regulation of recreational marihuana; zoning issues.

Attorney Nolan clarified whether the City opts in or opt out, recreational marihuana is here, people can grow their own product; the City is only discussing licensing storefronts and grow operations; cannot restrict in residential neighborhood; should City decide to opt-in, if the number of licenses is limited, the method of choosing who to license must be merit based; feels items in statute are purposefully vague, fraught with peril for litigation; he is not taking a position one way or the other whether it is right for the City; thinks it is right the City slows down and looks at this issue; if there are questions, he would like to help get the answers; statute is one of the worst he's ever seen; feels City needs to opt either way; if allowed, an ordinance must be established for a licensee to operate under.

Commissioner Marquardt: can the City allow only grow operations; Attorney Nolan responded the City can restrict what it allows, but must have justification for doing so; arguably the statute provides residents option of a voter initiative if they don't like the Commission's decision.

Commissioner Osentoski: read ballot language from the November 2018 ballot, which provides that municipalities can ban or restrict recreational marihuana businesses.

30 2019 02-04

Moved by Bostick-Tullius. Seconded by Bennett.

Schedule a public hearing for Monday, February 18, 2019 to receive public comment regarding recreational marihuana establishments.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.
MOTION CARRIED.

CITY MANAGER'S REPORT

City Manager Dale Kerbyson stated two of the six potential medical marijuana dispensaries are in the process of receiving their licenses and building out their facilities; City didn't have mechanical drawings in time to make the February Planning Commission meeting; will be placed on the March Planning Commission agenda for consideration.

CITY ATTORNEY'S REPORT

City Attorney Michael Nolan updated the City Commission on the FB Lapeer vs. City of Lapeer litigation.

UNFINISHED BUSINESS

None.

DEPARTMENTAL COMMUNICATIONS

The DDA Status reported dated January 18, 2019, Monthly Financial Report for November 2018 and the DDA Annual Financial Report were received into the record.

PUBLIC COMMENTS

Mark Calvert, Havens Road, Dryden, why is Commission unable to reach a consensus in a timely manner; people at tonight's meeting went to great lengths to get here and no decision was made.

Senator Kevin Daley, gave an update on items he is working on in Lansing; speaking as a lifelong citizen of Lapeer County, he encouraged the City Commission to opt out of recreational marijuana; disappointed the City opted-in to medical marijuana but is not an opponent of it; has met with Sheriffs of three counties and many police officers, who all say marijuana is a gateway drug; hates to think the City will be a gateway;

Glenn Alverson, Devonshire Drive, Commission should opt out of recreational marijuana; doesn't feel it's needed; doesn't want the City to be a hub for, or promoting, recreational marijuana; City is a religious community with many churches, to be promoting recreational marijuana is wrong; hopes Commission considers opting out.

Gary Cooley, disagreed with Mr. Daley's comments that marijuana is a gateway drug; have to be twenty-one years old to obtain marijuana; agrees public hearing should be held.

Tom RaCosta, a lot of communities are opting-out; young people will move into the City and be living in neighborhoods with a pot house.

Mayor Sprague reminded the audience that public comment is a time to address the Commission, not each other; respect the person speaking.

Jeanette Osentoski, Jefferson Street, thanked Commissioner Osentoski for reading what was passed by the voters; the decriminalization of recreational marijuana gives the City Commission a job to do; thanked the Commission for doing their job, deciding what is good for the City and for allowing medical marijuana dispensaries; thanked Mr. Cooley for his service; Commission needs to decide if recreational marijuana is something they want to sell in the City; half the City's registered voters did not show up at last election; glad there may be an opportunity for citizens to get something on the ballot if they'd like recreational marijuana facilities in the City; first \$20 million of revenue goes to the State, then money trickles down to the cities; agrees with Mr. Calvert, why delay a decision.

Bernadette Treece, Washington Street, suggested the City opt-out of recreational marijuana establishments; 45 year resident; recreational marijuana is legal but doesn't think the City is the place where everyone should come for it; there is a legal age limit for it but also an age limit on alcohol and young people are able to obtain it; afraid the same thing will happen with marijuana; more problems for law enforcement; any law enforcement person she has spoken to is not in favor of opting in.

Kim Guzek, asked Commission to make a decision to opt-out; everyone that needs medical marihuana can get it; a decision to opt-out of recreational doesn't deprive someone of access to medical marihuana.

Marlana Swindell, more liquor licenses in City than religious places; worked at a dispensary and doctor's office; thousands of people come through for medical marihuana, including pastors, religion not necessarily against; teen use has gone down in states that legalized recreational marihuana, statistics available on government websites; asked Commission not to read into propaganda and do their homework; teens will have access with or without storefronts.

Mark Calvert, early enough in process it would be better to make decision now regarding recreational marihuana; Commission has all the information needed, what they don't have, legal counsel can provide.

MAYOR/COMMISSIONER COMMENTS

Commissioner Atwood: thanked everyone for coming to tonight's meeting; his commission seat is not backed by any political party; decisions are based off logic and common sense; not backed by a special interest group and has no personal agenda; loves the City and wants to see it prosper, prays for City; if he disagrees with something it has nothing to do with lacking compassion or understanding; not passing judgement or being hateful; his right to disagree and remain full of love and compassion; someone's lifestyle or choice will not affect the way he looks at someone; not everyone will like or understand him; can't make everyone happy but can give his very best.

Commissioner Bennett: Thanked Ms. Adams for invocation; after listening to comments made tonight regarding recreational marihuana, the Commission's job has not changed, which is to do the best they can and figure out how their decision will affect the community; he will take the time to do that.

Commissioner Osentoski: Thanked Mr. Cooley for his service; medical marihuana facilities should be available within the City by year end; first time recreational marihuana has been discussed by the Commission; ran for City Commission to make sure the City continues to move forward in a positive direction; doesn't think the sale of recreational marihuana is good for the City, not family friendly; if City opts out, it can always opt back in.

Commissioner Bostick-Tullius: Thanked everyone for coming to tonight's meeting, comments are important for the Commission to take into consideration while working towards a decision; public hearing has not been held on this issue, feels it is important to have one; people will be notified of the public hearing and have the opportunity to speak for or against the issue.

Commissioner Marquardt: Thanked everyone for comments; agrees with holding a public hearing; would like to hear additional comments; received information before tonight's meeting and would like time to review it.

City Manager Dale Kerbyson: glad to see Senator Daley at tonight's meeting; working a list of items to discuss with the Senator; will be at a City Managers' conference beginning tomorrow through the end of the week.

Mayor Sprague: recapped upcoming local events; thanked everyone for coming to tonight's meeting; reiterated that during public hearings and public comments, everyone will respect the person speaking; it is an opportunity to express an opinion, not argue; appreciates Senator Daley attending tonight's meeting; disagrees with what some people say, elections do have consequences; voter turnout significantly higher last November than other off-year elections; have an obligation to listen to the majority, but make sure the right thing is being done for the City.

ADJOURNMENT

31 2019 02-04

Moved by Bennett.

Adjourn the regular meeting.

Ayes: Atwood, Bennett, Bostick-Tullius, Marquardt, Osentoski.

Nays: None.

Absent: None.

MOTION CARRIED.

The regular meeting adjourned at 7:33 p.m.

Mayor William J. Sprague

Renee L. Bullen, City Clerk, CMC

Tracey S. Russell, Deputy City Clerk