

**LAPEER CITY COMMISSION
MINUTES OF A REGULAR MEETING
APRIL 5, 2021**

A regular meeting of the Lapeer City Commission was held April 5, 2021 electronically via Zoom at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan. The meeting was called to order at 6:30 p.m.

ROLL CALL

Present: Mayor Marquardt.

Commissioners: Atwood, Cattane, Osentoski, Pattison, Stroh.

Absent: None.

City Manager: Dale Kerbyson, present.

City Attorney: Michael Nolan, present.

Mayor Marquardt led the Pledge of Allegiance.

064 2021 04-05 AGENDA APPROVAL

Moved by Pattison. Seconded by Stroh.

Approve the Agenda for April 5, 2021.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

065 2021 04-05 MINUTES

Moved by Cattane. Seconded by Pattison.

Approve the minutes of the Regular meeting held March 15, 2021, as presented.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

PUBLIC COMMENTS

Pete Kirley, Director of Lapeer County Veterans Affairs, 33-year retired Army Sergeant Major; veteran of Persian Gulf, Iran, and Afghanistan war. Been in this position for 19 months and wanted to take a few minutes to introduce himself. The office is located at 287 W. Nepessing Street and he looks forward to meeting everyone soon. Have a great year.

066 2021 04-05 CONSENT AGENDA

Moved by Stroh. Seconded by Cattane.

Approve the Consent Agenda for April 5, 2021 resulting in the following:

1. Special Event: Center for the Arts of Greater Lapeer, Inc. PIX Drive-In May 1, 2021.
2. Special Event: DDA Summer Car Cruise May – Sept 2021.
3. Special Event: DDA Ladies Night Out May 7, 2021.
4. Special Event: First Baptist Church Evening Service May 23, 2021.

5. Special Event: First Baptist Church Evening Service June 27, 2021.
6. Special Event: Chamber of Commerce Annual Fireworks July 4, 2021.
7. Special Event: Lapeer Optimist Nightmare on Nepessing October 9, 2021.
8. Downtown Outdoor Dining Area Right of Way Licenses.
9. 2021 Annual Spring Clean-Up.
10. MEDC Grant Geo-Technical Work (LDFA).

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

PROCLAMATIONS, RECOGNITIONS AND RESOLUTIONS

None.

PUBLIC HEARING

None.

ADMINISTRATIVE REPORTS

067 2021 04-05 BILL LISTING APPROVAL

Moved by Pattison. Seconded by Atwood.

Approve the Bill Listing for March 11, 2021 through March 30, 2021 in the amount of \$679,556.33.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

068 2021 04-05 ORDINANCE AMENDMENT: CHAPTER 19 OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

Moved by Cattane. Seconded by Stroh.

Adopt the ordinance amendments to Chapter 19 (Offenses Against Public Peace, Safety and Morals) of the General Ordinances of the City of Lapeer.

CHAPTER 19 OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

SECTION 19-31 SOCIAL DISTRICT

19-31 Social District and Commons Area:

(A) Pursuant to the authority granted by Public Act 124 of 2020 the City of Lapeer Commission may designate by Resolution Social District and Commons Area, which shall be clearly marked with appropriate signage within the Social District.

(B) This section is to be strictly construed as a limited exception to, and not in

conflict with, Sections 19.02H(2) of Chapter 19 Offenses Against Public Peace, Safety and Morals or Section 3-5D(10) of Chapter 3 Food and Health Section of the City of Lapeer Ordinances which generally prohibit the public consumption of, and possession of, open containers of alcoholic beverages within or upon any public street, sidewalk, alley, parking lot or property used for municipal purposes by the City of Lapeer and for purposes of Chapter 7 Zoning, Article XVII sections 7-17-01 thru 7-17.11 the Social District shall constitute the defined area required by the ordinance for the holder of a Social District Permit.

As used in this section:

- (C) Commons Area: means an area within a Social District clearly designated and clearly marked in accordance with the management and maintenance plan adopted by the City of Lapeer and which is shared by and contiguous to the premises of at least 2 Qualified Licensees the district shall constitute the “defined area” while the ordinance is in effect and the business is in compliance.
- (D) Qualified Licensee: means a retailer that holds a license, other than a special license, to sell alcoholic liquor for consumption on the licensed premises; and a manufacturer with either: a) an on-premises tasting room permit, b) an off-premises tasting room license, or c) a joint off-premises tasting room license.
- (E) Social District Permit: means an approved application by the City of Lapeer Commission and a permit issued by the Michigan Liquor Control Commission to a Qualified Licensee to operate within the Social District Commons Area in accordance with Michigan statute, this Chapter and the Historic Lapeer Social District Permit Rules and Regulations made part of any approved Social District Permit.
- (F) The creation of a Commons Area shall include the adoption of a management and maintenance plan, which may be amended as necessary, for the protection of the health and safety of the community and includes, but is not limited to, limitations on the dates and times of operation and defined locations for a Commons Area.
- (G) Except as provided by State law, a Qualified Licensee and holder of a Social District Permit issued by the Michigan Liquor Control Commission and with approval by the City of Lapeer Commission may sell alcoholic liquor for consumption within the confines of a Commons Area when all of the following requirements are met:
 - 1. The Qualified Licensee and holder of a Social District Permit has not had their Liquor License or Social District Permit suspended by the Michigan Liquor Control Commission.
 - 2. The Qualified Licensee and holder of the Social District Permit only

sells and serves alcoholic liquor on the holder's licensed premises;

3. The Qualified Licensee and holder of the Social District Permit only serves alcoholic liquor to be consumed in the Commons Area in a container to which all of the following apply:

- a. The container prominently displays the Qualified Licensee and Social Districts permit holders trade name or logo;
- b. Container shall also prominently display a special logo that is unique to the Social District as determined by the City.
- c. The container is not glass; and
- d. The container has a liquid capacity that does not exceed 16 ounces.

(H) A purchaser or person in possession of, may remove a container of alcoholic liquor sold by a Qualified Licensee and holder of a Social District Permit from the Social District Permittee's licensed premises to the Commons Area if all of the following conditions are met:

1. The purchaser or person in possession of an alcoholic liquor does not remove the container from the Commons Area;
2. While possessing the alcoholic liquor container, the purchaser or person in possession of, does not enter a Qualified Licensee and holder of a Social District permit premises other than the Qualified Licensee from which the alcoholic liquor container was purchased; and
3. The purchaser or person in possession of does not possess alcoholic liquor within a motor vehicle; and
4. The purchaser or person in possession of does not consume or possess alcoholic liquor in the traveled portion of an open for vehicular travel roadway.

(I) The consumption of alcoholic liquor from a container in a Commons Area as allowed under this section may only occur during the hours established by the Management and Maintenance Plan for the Commons Area.

(J) A purchaser or person in possession of alcoholic liquor violating the restrictions set forth in this section is guilty of municipal civil infraction punishable by a fine of up to \$100 and associated court costs.

(K) A Qualified Licensee and holder of a Social District Permit or their employee violating or allowing others to violate the restrictions set forth in this section is guilty of a municipal civil infraction punishable by a fine of up to \$100 and associated court costs and suspension of Social District Permit and a

violation notification to the Liquor Control Commission.

- (L) The City or Lapeer Commission reserves the ability to revoke or suspend the Social District designation if it determines that the activities within or existence of the Commons Area threaten the health, safety, or welfare of the public or have become a public nuisance or that a suspension and/or hours of operation modification is in the best interest of health, safety, or welfare of the public. Before revoking the designation, the City Council will hold at least 1 public hearing, the time and place thereof which shall be noticed as required by the Open Meetings Act, MCL15.261 *et seq.*, on the proposed revocation.
- (M) The City of Lapeer Commission reserves the ability to withdraw approval of an application by a Qualified Licensee submitted to the Michigan Liquor Control Commission.
- (N) The City Clerk is authorized and directed to file this ordinance and any resolutions setting forth the designation of the Social District and Commons Areas along with the management and maintenance plans adopted pursuant to ordinance with the Michigan Liquor Control Commission.
- (O) Severability: In the event that any one or more sections, provision, phrases or words of this chapter shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this chapter.
- (P) Effective Date: This amendatory ordinance shall be effective 10 days after adoption by the City Commission and after publication as provided by the Charter of the City of Lapeer.
- (Q) Termination: This section shall be inapplicable after December 31, 2024 without a resolution issued by the City of Lapeer Commission for continuance as outlined within State of Michigan Public Act 124 of 2020.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

RESOLUTION DECLARED ADOPTED.

069 2021 04-05 ORDINANCE AMENDMENT: CHAPTER 68 MEDICAL MARIHUANA FACILITIES.

Moved by Pattison. Seconded by Stroh.

Adopt the ordinance amendments to Chapter 68 Medical Marihuana Facilities.

**CHAPTER 68
AN ORDINANCE TO AUTHORIZE AND REGULATE
THE ESTABLISHMENT OF MEDICAL MARIHUANA FACILITES**

§ 68-01 Purpose

- A. It is the intent of this Ordinance to authorize the establishment of certain types of medical marihuana facilities in the City of Lapeer and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this Ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the City of Lapeer through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marihuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. *The City of Lapeer specifically incorporates the terms and provisions of the Michigan Medical Marihuana Act and the Medical Marihuana Facilities Licensing Act herein as if set forth hereunder.*

68-04 C.(1)(a) is amended to include the following:

(1) Application.

- (a) File an application with the City Clerk's office upon a form provided by the City of Lapeer and submittal of the annual nonrefundable fee. *Such application shall include, in addition to all other items set forth in the application itself:*

(i) *A criminal background report on the applicant's criminal history. Such reports shall be obtained by the applicant and, if applicable, each stakeholder through the Internet Criminal History Access Tool (ICHAT) for applicants or stakeholders residing in Michigan and/or through another state sponsored or authorized criminal history access source for applicants or stakeholders who reside in other states or have resided in other states within five (5) years prior to the date of the application. The applicant or stakeholder is responsible for all charges incurred in requesting and receiving the criminal history report and the report must be dated within thirty (30) days of the date of the application. The applicant shall disclose all arrests, prosecutions and dispositions whether identified in the applicant or each stakeholder's ICHAT report or not. Failure to submit a complete criminal history report or supplemental report by the applicant and the stakeholders will result in disqualification from licensure and removal of the applicant's application from the licensure application process.*

(ii) *A complete disclosure of the applicant and each stakeholder's litigation history, by case name, date, jurisdiction and nature or type of litigation. Failure to submit a complete litigation history by the applicant and the stakeholders will result in disqualification from licensure and removal of the applicant's application from the licensure application process.*

ON A ROLL CALL VOTE:

Ayes: Cattane, Osentoski, Pattison, Stroh.

Nays: Atwood.
Absent: None.
MOTION CARRIED 4-1.

070 2021 04-05 ORDINANCE AMENDMENT: CHAPETER 69 ADULT USE MARIHUANA BUSINESSES AND FACILITIES

Moved by Stroh. Seconded by Cattane.

Adopt the ordinance amendments to Chapter 69 Adult Use Marihuana Businesses and Facilities.

**CHAPTER 69
AN ORDINANCE TO AUTHORIZE AND REGULATE
THE ESTABLISHMENT OF ADULT USE
MARIHUANA BUSINESSES AND FACILITES**

§ 69-02 Definitions

(p) "Excess marihuana grower" means a license issued to a person holding 5 class C marihuana grower licenses or more and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

§ 69-03 Licensing and Appeals

<u>License Type</u>	<u>Number</u>
Marihuana Retailer (see below)	6
Marihuana Grower (Class A, B, and C, only)	Unlimited
<i>Marihuana Excess Grower</i>	<i>Unlimited</i>
Marihuana Processor	Unlimited
Marihuana Safety Compliance Facility	Unlimited
Marihuana Secure Transporter	Unlimited

(2) No Other Licenses Authorized.

Pursuant to section 6 of the MRTMA, MCL 333.27956, The City shall not authorize any licenses to operate ~~an excess marihuana grower~~, a marihuana microbusiness, designated consumption establishment, and further shall not authorize the issuance of a marihuana event organizer license or temporary marihuana event license in the City.

§ 69-04 License Applications.

(j) A criminal background report on the applicant's criminal history. Such reports shall be obtained by the applicant and, if applicable, each stakeholder through the Internet Criminal History Access Tool (ICHAT) for applicants or stakeholders residing in Michigan and/or through another state sponsored or authorized criminal history access source for applicants or stakeholders who reside in other states or have resided in other states within five (5) years prior to the date of the application. The applicant or stakeholder is responsible for all charges incurred in requesting and receiving the criminal history report and the report must be dated within thirty (30) days of the date of the application. *The applicant shall disclose all arrests, prosecutions and dispositions whether identified in the applicant or each stakeholder's ICHAT report por not. Failure to submit a complete criminal history*

report or supplemental report by the applicant and the stakeholders will result in disqualification from licensure and removal of the applicant's application from the licensure application process.

(q) A complete disclosure of the applicant and each stakeholder's litigation history, by case name, date, jurisdiction and nature or type of litigation. Failure to submit a complete litigation history by the applicant and the stakeholders will result in disqualification from licensure and removal of the applicant's application from the licensure application process.

ON A ROLL CALL VOTE:

Ayes: Cattane, Pattison, Stroh.

Nays: Atwood, Osentoski.

Absent: None.

MOTION CARRIED 3-2.

071 2021 04-05 MECHANICAL & PLUMBING CONTRACT

Moved by Pattison. Seconded by Osentoski.

Approve the Mechanical & Plumbing Contract with Ken Nightlinger as substitute contractor and authorize the Mayor and City Manager to sign the required documents.

ON A ROLL CALL VOTE:

Ayes: Atwood, Osentoski, Pattison, Stroh.

Nays: Cattane.

Absent: None.

MOTION CARRIED 4-1.

072 2021 04-05 CONSTRUCTION ENGINEERING SERVICES CONTRACT

Moved by Stroh. Seconded by Pattison.

Approve the Construction Engineering Contract with Rowe Engineering for the rehabilitation of the Lapeer Community Center Parking Lot and authorize the City Manager to sign the required documents.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

073 2021 04-05 DEMILLE BOULEVARD AND OAKDALE GROUNDS MAINTENANCE CONTRACT

Moved by Pattison. Seconded by Osentoski.

Approve the SO*MX Lawn & Snow Removal for the DeMille Boulevard and Oakdale Grounds Maintenance Contract for the seasons of 2021, 2022 and 2023 and authorize the Mayor and City Manager to sign required documents.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

074 2021 04-05 MT. HOPE CEMETERY GROUNDS MAINTENANCE CONTRACT

Moved by Stroh. Seconded by Cattane.

Approve the SO*MX Lawn & Snow Removal for the Mt. Hope Cemetery Grounds Maintenance Contract for the seasons of 2021, 2022 and 2023 and authorize the Mayor and City Manager to sign required documents.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

075 2021 04-05 MARIHUANA FACILITY ASSESSMENT 2021

Moved by Cattane. Seconded by Stroh.

To keep the same number limit for medical marihuana facilities as it.

ON A ROLL CALL VOTE:

Ayes: Cattane, Osentoski, Pattison, Stroh.

Nays: Atwood.

Absent: None.

MOTION CARRIED 4-1.

076 2021 04-05 MDOT LOCAL BRIDGE RESOLUTION - GENESEE STREET

Moved by Pattison. Seconded by Cattane.

To adopt the resolution for MDOT Local Bridge Program for the Genesee Street Bridge.

**MUNICIPAL RESOLUTION FOR REPLACEMENT OF
THE GENESEE STREET BRIDGE
THROUGH THE MICHIGAN DEPARTMENT OF TRANSPORTATION
LOCAL BRIDGE PROGRAM**

WHEREAS, the condition of the Genesee Street bridge has deteriorated to such an extent that replacement is necessary; and

WHEREAS, the budget of the City of Lapeer will not allow for replacement of this bridge without additional funds from other sources;

NOW, THEREFORE, BE IT RESOLVED, that the City of Lapeer requests Michigan Department of Transportation Local Bridge Program Funding for replacement of the Genesee Street Bridge for MDOT's including Fiscal Year 2021-2024.

This resolution adopted this 5th day of April 2021.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

CITY MANAGER'S REPORT

City Manager Kerbyson commented there was a lot of work in this agenda so far. He also stated the MDOT Resolutions is the ninth grant application we have in the works now;

several positive balls in the air relating to grants. About to close our reimbursement for our expenses in the gas station leaks; property owners have paid up and have agreed to pay in full by Friday this week. Met with Postmaster to discuss the outstanding special assessment on the property; she has agreed to send that forward for payment; she was very receptive and excellent to work with. Also met with Lapeer Township last week; has been assisting with the sale of the Energy Steel factory space that has been vacated, Urgent Design, which is next door is considering buying the site.

CITY ATTORNEY'S REPORT

City Attorney Nolan echoed City Manager Kerbyson's comments, behind the scenes he has the opportunity to interact with many of the departments over the course of the weeks between the meeting; remind you what an outstanding staff you have. The administrative staff, the Department of Public Works, who he has been working with recently, deserves a pat on the back. The Commission has a tremendous staff that does an outstanding job and he likes to give shout outs to each department when they deserve it. The Commission is doing an outstanding job; this was a huge agenda and you have moved through it rather quickly.

UNFINISHED BUSINESS

077 2021 04-05 RE-APPOINTMENT - CEMETERY BOARD

Appointment by Mayor Marquardt. Moved by Pattison. Seconded by Stroh .

To re-appoint Dana Jansen to the Cemetery Board for a term to expire April 1, 2026.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

078 2021 04-05 RE-APPOINTMENT - LAPEER HOUSING BOARD OF APPEALS

Appointment by Mayor Marquardt. Moved by Pattison. Seconded by Osentoski.

To re-appoint James Mikus and Jennell RaCosta to the Lapeer Housing Board of Appeals for a term to expire May 1, 2024.

ON A ROLL CALL VOTE:

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

DEPARTMENTAL COMMUNICATIONS

The Housing Improvement Department Memorandum for 371 Turrill Ave. was received into the record.

PUBLIC COMMENTS

None.

MAYOR/COMMISSIONER COMMENTS

Commissioner Osentoski: Thanked the City Manager and all City employees involved in getting the RRC Certification; good accolade for the City and should help us in the future.

Commissioner Cattane: COVID is not gone, wants it to be gone; please wear a mask, please get the shot when you can. Please be mindful of everyone around you. Glad it is warming up; glad to have fireworks this year; would love to have a plan for us to light up the sky and assist the Chamber in our City. We are in need to celebrate a victory and July 4 would be a good time to do so.

Commissioner Stroh: Gallery 194, Lapeer Art Association and Stones Throw Theater all have shows; has been asked to be a judge at the Congressional Festival of Arts with Representative Lisa McClain's office; pleased to be asked to do so; National Poetry month, so get your Haiku on.

Commissioner Pattison: Been out on the bike trails and the signs are going up and look good; look for them. Would like to request that we put the resolution continuing of the Local State of Emergency on the agenda for the next meeting. We need to reexam it again.

City Manager Kerbyson: Waste Management will be at White Junior High removing the hazardous materials for 2 days; removing some other items that are no longer allowed in landfills; after final asbestos abatement then we can move forward with demolition.

Mayor Marquardt: We have two Commissioners with birthdays this month, Commissioner Pattison's tomorrow and Commissioner Cattane's next week. Looking forward to seeing the bike trail signs.

079 2021 04-05 ADJOURNMENT

Moved by Cattane.

Adjourn the regular meeting at 7:12 p.m.

Ayes: Atwood, Cattane, Osentoski, Pattison, Stroh.

Nays: None.

Absent: None.

MOTION CARRIED.

The regular meeting adjourned at 7:12 p.m.

Debbie Marquardt, Mayor

Romona Sanchez, City Clerk

Tracey S. Russell, Deputy City Clerk