

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF MARCH 17, 2014**

Clark called the meeting to order at 7:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. He also led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Brown, Clark, Droscha, Ferris, Mulvany, Naeyaert
Absent: Councilmember: Bruno
Also present: Martin A. Colburn, City Administrator
Deborah J. Cwierniewicz, City Clerk
Eric Smith, Finance Director/Treasurer
John Stressman, Chief of Police
Dennis McGinty, City Attorney

ANNOUNCEMENTS

Arts Initiative, Mason (AIM) Fundraiser – Bestsellers Extra – March 29, 2014

PEOPLE FROM THE FLOOR

Barbara Tornholm of 703 Roosevelt Street requested Council to increase the city millage rate. She stated that her property tax assessment was down again, and so she is aware that city revenue has declined again, as well. She asked that when Council begins its budget deliberations, they would consider long term cost. Ms. Tornholm stated there are consequences to deferring maintenance for too many years, as well as prolonged pressure and stress on city staff.

PRESENTATION

Gene Hardy - Northwood Energy Corporation Oil and Gas Lease Update

Pam and Gene Hardy of Hardy & Hardy Consulting LLC, who manage the operations of Northwood Energy Corp., were present to give an update on the oil and gas operation and production. Mr. Hardy presented the January 2014 royalty check in the amount of \$13,684.65. Iva Bond gifted property with oil and mineral rights to the city. The royalties are deposited in the Iva Bond Fund for community enhancements.

Bruce Johnston – Ash Street Project Update

Bruce Johnston, City Housing Consultant, gave an update regarding progress on grants to rehabilitate 124 and 140 East Ash Street being received from Michigan State Housing Development Authority (MSHDA) and Michigan Economic Development Corporation (MEDC). A meeting will be held on March 19 to review compliance requirements with the various grants. All funds are secured and the grants will be presented to Council for approval in the near future. Once approval has been granted, construction will begin. A MSHDA policy will need to be adopted regarding program guidelines for the rental rehabilitation program. He thanked city staff for their assistance. Mr. Johnston gave accolades to Mary Ruttan, retired Executive Director of the Land Bank, who researched a very unusual grant and brought it to fruition for the rehabilitation of the oldest building in downtown.

David Haywood—2013 Planning and Zoning Department Annual Report

Haywood elaborated on the 2013 Zoning & Development Annual Report submitted to Council.

CONSENT AGENDA

MOTION by Droscha, second by Brown,
to approve the Consent Agenda as follows:

- A. Motion – Approval of Minutes – Regular Council Meeting: March 3, 2014
- B. Motion – Approval of Bills - \$33,365.33
- C. Motion – 2013 Annual Report– Zoning & Development
 - Accept the 2013 Annual Report for the Zoning & Development Department and place it on file.

MOTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

First Reading – Ordinance No. 196 – An Ordinance to Amend Chapter 10—Businesses—of the Code of the City of Mason by Adding Article III Which Defines Medical Marihuana Operations and Dispensaries, Requires a License and Sets Forth the Requirements to Obtain a License and the Effect of Having a License Within the City of Mason

McGinty informed Council regarding recent case law relating to medical marihuana operations and dispensaries. In February 2014, the Michigan Supreme Court ruled that the Federal Controlled Substance Act did not pre-empt State or local ordinances and that the Michigan Medical Marihuana Act should be applied and followed; therefore, declaring Ordinance No. 180 unconstitutional. He recommended that the city return to the original legislation established in 2010. Ordinance No. 196 regulates the requirement of a license and sets the requirements for obtaining a license, as well as the effect of having a license.

MOTION by Droscha, second by Mulvany,
to amend Ordinance No. 196, under Section 10-72 by adding item (E) The property used for Medical Marihuana Dispensary may be located in the areas zoned C-2, but no closer than one-thousand feet to a Mason school including, Mason High School, Mason Middle School, Steele Elementary School, and Harvey Education Center.

Discussion ensued regarding the drug-free school zones law. McGinty suggested that if Ordinance No. 196 is adopted in two weeks, and the council adopts a moratorium at the same time, it would be appropriate for the ordinance to be referred to the Planning Commission.

VOTE ON THE MOTION:

Yes (0)

No (6) Brown, Clark, Droscha, Ferris, Mulvany, Naeyaert

Absent: (1) Bruno

MOTION FAILED

A lengthy discussion ensued. It was discussed to consider Ordinance No. 196 for adoption and adopt a moratorium immediately. Stressman commented on the “pharmaceutical grade” medical marihuana law.

MOTION by Brown, second by Naeyaert,
to recess to prepare a resolution for consideration.

MOTION APPROVED UNANIMOUSLY

The meeting recessed at 8:59 p.m. and reconvened at 9:12 p.m.

MOTION by Naeyaert, second by Droscha,
to consider Ordinance No. 196 read and adopted.

MOTION APPROVED UNANIMOUSLY

**CITY OF MASON
ORDINANCE NO. 196**

AN ORDINANCE TO AMEND CHAPTER 10 - BUSINESSES - OF THE CODE OF THE CITY OF MASON BY ADDING ARTICLE III WHICH DEFINES MEDICAL MARIHUANA OPERATIONS AND DISPENSARIES, REQUIRES A LICENSE AND SETS FORTH THE REQUIREMENTS TO OBTAIN A LICENSE AND THE EFFECT OF HAVING A LICENSE WITHIN THE CITY OF MASON

THE CITY OF MASON ORDAINS:

Article III of Chapter 10 - Businesses - of the Code of City of Mason and sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 are hereby added to the Code of the City of Mason to read as follows:

ARTICLE III - MEDICAL MARIHUANA

Sec. 10-70. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Michigan Medical Marihuana Act.

Dispensary means a structure, lot or premises from which two or more primary caregivers sell, deliver or otherwise dispense medical marihuana to patients.

Marihuana means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Patient means any person to whom a primary caregiver delivers marihuana pursuant to the Act.

Primary caregiver means a person who is licensed and defined under the act as a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.

Primary caregiver operation means a structure, lot or premises from which a primary caregiver sells, delivers or otherwise dispenses medical marihuana to a patient.

Qualifying patient means a person who has been diagnosed by a physician as having a debilitating medical condition.

Registry identification card means a document issued by the department of community health that identifies a person as a registered qualifying patient or registered primary caregiver.

Usable marihuana means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.

Sec. 10-71. Required; fee; application.

(a) No person shall operate a primary caregiver operation or operate or assist in the operation of a dispensary without having first obtained and without being in possession of a valid license issued by the city clerk.

(b) Application shall be made annually on forms provided by the city clerk which shall require the full legal name and date of birth of each caregiver and address of the intended location of the primary caregiver operation or dispensary, a copy of each caregiver's registry identification card, the number of registered patients for each caregiver and the maximum amount of usable marihuana and maximum number of marihuana plants the caregiver operation or dispensary may have on the property at any one time. The application shall state whether any electrical devices designed to assist in the growing of medical marihuana will be used in conjunction with the license, whether any structural modifications have been made or are intended to be made in conjunction with the license. The application shall be accompanied by any required building, electrical or plumbing permits.

(c) The initial application fee shall be \$100.00 for each primary caregiver operation and \$100.00 per caregiver for each dispensary. Renewal fees shall be established by annual budget resolution of the city council.

Sec. 10-72. Conditions of issuance.

The city clerk shall not issue an initial or renewal license until such time as all of the following conditions have been met:

(a) A completed application has been submitted to the clerk with the required fees that accurately states the lawful amount of usable marihuana and marihuana plants an applicant may have on the property at any one time.

(b) Proof that an annual inspection has been conducted by the Mason police department and the police department certifies that the facility is in conformity with the state law and city ordinances. The police department may, as part of its inspection, require building officials and/or the fire department inspect the property prior to certification to ensure that it is in conformity with state law and city ordinances should the police suspect, during their inspection, that unreported or non-permitted structural alterations have been made, unreported or non-permitted electrical modifications have been made, unreported or non-permitted electrical devices are being used, otherwise unsafe electrical connections or overloaded circuits are present or unreported or un-permitted plumbing modifications have been made in conjunction with the license.

(c) Where the application identifies electrical devices are being used or intended to be used to assist in the growing of medical marihuana, proof that the fire department has inspected and approved the use or proposed use and that any necessary permits for electrical alterations have been obtained.

(d) Where the application identifies structural modifications have been made or are intended in conjunction with the license, proof that the appropriate building code officials have inspected the property and issued the necessary permits.

Sec. 10-73. Conduct of licensee.

(a) Each licensee shall, as a condition of obtaining and maintaining a license, agree to comply at all times with all applicable local and state building, zoning, fire, health, and sanitation statutes, ordinances, and regulations.

(b) The premises shall be operated and maintained at all times consistent with responsible business practices and so that no excessive demands will be placed upon public health or safety services, nor any excessive risk of harm to the public health, safety, or sanitation.

(c) The premises shall at all times be operated in compliance with all applicable provisions of this code and the act.

(d) The licensee shall immediately notify the city clerk of any changes in the names or additions and reductions in the number of primary caregivers operating from any structure, lot or premises within the city and pay the appropriate application fee for each increase in the number of primary caregivers.

Sec. 10-74. Effect of license; suspension, penalty.

(a) A license is valid only for the location identified on the license and cannot be transferred to another location within the city without a new application.

(b) Conducting a primary caregiver operation or a dispensary is a violation of federal law. A license does not prohibit prosecution by the federal government of its laws. Nor does a license prohibit prosecution by state authorities for violations of the act or other violations not protected by the act. A valid license shall not be construed as providing any protection beyond prosecution by the city of Mason for conducting a primary caregiver operation or a dispensary without a license.

(c) Compliance with city ordinances and state statutes is a condition of maintenance of a license and a license may be suspended for cause pursuant to the provisions of this chapter.

(d) Suspension of a license is not an exclusive remedy and nothing contained herein is intended to limit the city's ability to prosecute code violations that may have been the cause of the suspension or any other code violations not protected by this act.

(e) No person who has not been identified as a primary caregiver on an application with the city

clerk, or subsequent filing with the city clerk pursuant to the requirements of this article, shall be deemed to be licensed.

(f) Any changes to the act or any decisions by a court of competent jurisdiction which would render a license issued under this article void or otherwise ineffective, shall result in the immediate expiration of any license issued under this section.

(e) Each day that a person shall conduct a primary caregiver operation or a dispensary without a license shall constitute a separate offense.

Sec. 10-75. Confidentiality.

Names and addresses of applicants and any licensed primary caregivers under this article shall be confidential information and shall be maintained as confidential records not subject to disclosure, except to other authorized employees of various city departments as is necessary to perform their official duties under this article. No records or information shall be released except upon order of a court of competent jurisdiction.

Declaration of need to be effective immediately

This ordinance is declared to be immediately necessary for the preservation of the public peace, health and safety and shall be effective upon adoption.

ORDINANCE APPROVED UNANIMOUSLY

MOTION by Naeyaert, second by Brown, to amend the agenda by inserting Item No. 8(B) Resolution No. 2014-13 – A Resolution Declaring an Additional Temporary Moratorium on the Issuance of Licenses for Primary Caregiver Operations and Dispensaries in the City of Mason and adjust the remaining items sequentially.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2014-13 – A Resolution Declaring an Additional Temporary Moratorium on the Issuance of Licenses for Primary Caregiver Operations and Dispensaries in the City of Mason

Discussion was held to insert language in the last paragraph of Resolution No. 2014-13 stating, *(3) This limited moratorium on the issuance of primary care giver operation licenses and dispensary licenses shall be effective for 180 days from passage.*

MOTION by Naeyaert, second by Brown to consider Resolution No. 2014-13 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2014-13 was introduced by Mulvany and seconded by Naeyaert. Discussion ensued regarding the necessity of a moratorium.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2014-13
A RESOLUTION DECLARING AN ADDITIONAL TEMPORARY MORATORIUM
ON THE ISSUANCE OF LICENSES FOR PRIMARY CAREGIVER OPERATIONS
AND DISPENSARIES IN THE CITY OF MASON
March 17, 2014**

WHEREAS, the People of the state of Michigan have adopted, by initiative, the Michigan Medical Marihuana Act (the "Act"); and

WHEREAS, the Act authorizes primary caregivers to assist qualifying patients in obtaining medical marihuana by allowing the primary caregiver to grow, possess, and deliver limited amounts of marihuana to the patients and receive compensation for doing so; and

WHEREAS, the Act's provisions have resulted in primary caregivers combining to form what has come to be termed "dispensaries" in adjacent municipalities in which multiple registered primary caregivers operate from a single building to create situations in which amounts of marihuana greater than the act would otherwise allow for a single primary caregiver are being possessed and stored on single lots and properties; and

WHEREAS, the Act does not regulate or even necessarily allow for dispensaries and many significant aspects of the operation of a dispensary could affect the health, safety and welfare of the citizens of the city of Mason; and

WHEREAS, the Act does not regulate many significant aspects of the operation of a primary caregiver that could affect the health, safety and welfare of the citizens of the city of Mason; and

WHEREAS, the City had previously adopted an ordinance which was understood to have the effect of prohibiting primary caregiver operations and dispensaries within the City; and

WHEREAS, the Michigan Supreme Court has determined such ordinances to be in conflict with the Act but also has stated that the use of Marihuana pursuant to the Act may be regulated; and

WHEREAS, the City of Mason intends to regulate primary caregiver operations and dispensaries to ensure the health, safety and welfare of its citizens; and

WHEREAS, the City of Mason, as part of the regulatory process, has adopted an ordinance requiring primary caregiver operations and dispensaries to be licensed; and

WHEREAS, the City of Mason is in the process of considering and studying how to effectively regulate dispensaries and primary caregiver operations to meet the intent of the Act while preserving the health, safety and welfare of its citizens; and

WHEREAS, the City Council desires that no licenses be authorized or issued in the city of Mason for dispensaries or primary caregiver operations until the process is concluded to determine the appropriate and necessary regulations;

NOW, THEREFORE, BE IT RESOLVED that:

1. No applications for licenses for primary caregiver operations shall be accepted and no licenses shall be issued from the effective date of this resolution and while the moratorium enacted by this resolution or any subsequently adopted resolutions which may extend this moratorium shall remain in effect.

2. No applications for licenses for dispensaries shall be accepted and no licenses shall be issued from the effective date of this resolution and while the moratorium enacted by this resolution or any subsequently adopted resolutions which may extend this moratorium shall remain in effect.

3. This limited moratorium on the issuance of primary care giver operation licenses and dispensary licenses shall be effective for 180 days from passage.

Yes (5) Brown, Clark, Ferris, Mulvany, Naeyaert

No (1) Droscha

Absent: (1) Bruno

RESOLUTION APPROVED

Resolution No. 2014-10 – A Resolution Authorizing the City Administrator to Enter into a Project Development Agreement with the Michigan Department of Natural Resources

Resolution No. 2014-10 was introduced by Ferris and seconded by Mulvany. Colburn informed Council that the grant application was approved by the Michigan Recreation Passport Grant Program for the development of trailhead signage and a pedestrian bridge over the Sycamore Creek in the amount of \$30,000. The Dart Foundation has pledged \$10,000 for educational signage, and George and Lisa Hayhoe have pledged \$20,000 toward the project. The proposed project is anticipated to have a total construction cost of \$90,131, leaving \$30,000 of the project unfunded. Staff recommended changing the city's match from General Fund to the Iva Bond Trust toward the unfunded portion of the project.

Discussion ensued regarding the use of the Iva Bond Fund relating to existing recreational maintenance needs, as well as the continuing efforts for a walkable community.

A lengthy discussion followed regarding whether Iva Bond funds or funds from the General Fund should be used for the project.

MOTION by Droscha, second by Mulvany,
to change the language in Resolution No. 2014-10 by striking (Iva Bond Trust Fund match), and inserting, (General Fund match), in the second paragraph.

Yes (2) Droscha, Ferris

No (4) Brown, Clark, Mulvany, Naeyaert

Absent (1) Bruno

MOTION FAILED

MOTION by Ferris, second by Mulvany,
to approve Resolution No. 2014-10.

Yes (3) Brown, Droscha, Ferris

No (3) Clark, Naeyaert, Mulvany

Absent (1) Bruno

MOTION FAILED

Resolution 2014-11 – A Resolution Approving the City of Mason Master Plan Update 2014

Haywood comment on the 2014 Master Plan Update adopted by the Planning Commission on February 11, 2014 for Council's review and consideration.

MOTION by Droscha, second by Brown,
to consider Resolution No. 2014-11 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2014-11 was introduced by Ferris and seconded by Mulvany.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2014-11
A RESOLUTION APPROVING THE CITY OF MASON
MASTER PLAN UPDATE 2014
March 17, 2014**

WHEREAS, the Mason Planning Commission is authorized by the Michigan Planning Enabling Act (PA33 of 2008) to prepare and adopt a master plan; and

WHEREAS, the Mason City Council and the Mason Planning Commission wish to update the Master Plan to comply with current state law, to address the current and future needs of the City, and to identify how growth and associated land development will be guided to enhance the future welfare of Mason; and

WHEREAS, the Master Plan Update 2014 was prepared by the Mason Planning Commission in coordination with City staff and adopted on February 11, 2014; and

WHEREAS, the Planning Commission held three community visioning workshops in September of 2011 to gather public input; and

WHEREAS, a public hearing on the draft Master Plan Update 2014 was noticed and held at the Planning Commission's regular meeting of January 14, 2014 with testimony given and public comment solicited, including from surrounding municipalities and underlying agencies, in accordance with the Michigan Planning Enabling Act (PA33 of 2008); and

WHEREAS, the City Council has received and reviewed the adopted Master Plan Update 2014; and

NOW THEREFORE BE IT RESOLVED, that the Mason City Council does hereby approve the adopted Master Plan Update 2014 dated February 11, 2014, and resolves to use the Plan as an overall policy plan to guide the future development of the City of Mason.

RESOLUTION APPROVED UNANIMOUSLY

Resolution 2014-12—Authorizing City Council to Apply for State and Tribal Assistance Grant (STAG) to Capture \$500,000 Congressional Appropriation to put toward the Water Project Located at the Mason Publicly Owned Treatment Works

Clark commended the leadership of administration and Council who went to Washington D.C. to lobby for congressional appropriations for the mandated water project.

MOTION by Droscha, second by Brown,
to consider Resolution No. 2014-12 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2014-12 was introduced by Ferris and seconded by Mulvany.

CITY OF MASON

CITY COUNCIL RESOLUTION NO. 2014-12

A RESOLUTION AUTHORIZING THE CITY OF MASON TO APPLY FOR A UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (US EPA) STATE AND TRIBAL ASSISTANCE GRANT (STAG) TO CAPTURE THE \$500,000 CONGRESSIONAL APPROPRIATION TO PUT TOWARD THE WATER PROJECT LOCATED AT THE MASON PUBLICLY OWNED TREATMENT WORKS

March 17, 2014

WHEREAS, the City of Mason received notification of a United States Congressional appropriation of \$500,000 for a City water project; and

WHEREAS, the United States Environmental Protection Agency (US EPA), Region 5 in Chicago, Illinois informed the City that to receive a grant from the US EPA for water related infrastructure improvements, we are required to submit an application for Federal assistance: SF-424; and

WHEREAS, the City is applying for a State and Tribal Assistance Grant (STAG) for a new waste water treatment plant entrance works and ancillary upgrades to improve plant capacity at an estimated cost of \$1.6 million; and

NOW THEREFORE BE IT RESOLVED, that the Mason City Council gives City Administrator Martin Colburn signature authority and authorizes the City to submit an application to the US EPA for Federal assistance SF-424 (STAG) for new waste water treatment plant entrance works and ancillary upgrades to improve plant capacity.

RESOLUTION APPROVED UNANIMOUSLY

Motion—Select Company to Prepare Concept for City Hall Landscaping

At the previous regular meeting, it was the consensus of Council to choose one of the landscape proposals submitted and request that company to prepare a concept that would fit within the landscape budget. Proposals were submitted by the following companies: HTA Companies, Inc., The Plant Professionals, Inc., Snyder's Landscape Design Inc., and Bluegrass Lawn and Landscape. Discussion was held whether to have the Tree Commission review the proposal; it was determined that the Tree Commission would not have a role in the project.

MOTION by Naeyaert, second by Droscha,
to select the proposal of Bluegrass Lawn and Landscape for City Hall

landscape services, not to exceed \$20,000, and with the understanding that the company will be given a new set of parameters set by Council, financially and logistically, in consideration of the wooden military statues that will be placed on the berm along Ash Street and budget limitations.

Yes (5) Clark, Droscha, Ferris, Mulvany, Naeyaert

No (1) Brown

Absent (1) Bruno

MOTION APPROVED

UNFINISHED BUSINESS

None.

NEW BUSINESS

It was discussed that there is time to devise a plan to save money and utilize the Dart grant and the Hayhoe family donation for the pedestrian bridge prior to the next regular meeting.

CORRESPONDENCE

All correspondence was distributed. Clark shared an email he and Mayor Pro Tem Naeyaert received from Don Hamilton of Raging River commending the assistance he received from Kirk Crawford and the DPW staff with snow removal.

LIAISON REPORTS

- Brown informed Council regarding the Sesquicentennial Committee business
- Naeyaert informed Council regarding Planning Commission business
- Clark informed Council regarding Downtown Development Authority business

COUNCILMEMBER REPORTS

Brown reported on the National League of Cities Congressional Cities Conference in Washington D.C. he attended on March 9, where he was appointed to serve on the Finance, Administration & Intergovernmental Relations Committee.

ADMINISTRATOR'S REPORT

Colburn informed Council regarding city business.

ADJOURNMENT

The meeting adjourned at 10:31 p.m.

Deborah J. Cwiertniewicz, City Clerk

Leon R. Clark, Mayor