

CITY OF FENTON COUNCIL WORK SESSION PROCEEDINGS

**Monday, July 7, 2014
City Hall Conference Room
301 South LeRoy Street
7:30 PM**

Mayor Sue Osborn called the meeting to order at 7:30 PM.

Present: Bland, Grossmeyer, Jacob, King, Lockwood, McDermott, Osborn.
Absent: None.
Others Present: Lynn Markland, City Manager, Chris Patterson, Legal Counsel and Mike Burns, Assistant City Manager.

CITIZENS COMMENTS – None.

DISCUSSION REGARDING LIBRARY UPGRADES

Chris DeBear from Library Design Associates updated the Council on the library upgrades. He stated specifications for painting and drawings will be provided next week and flooring plans will be taken to manufacturers to get pricing. He met with George Ananich from H2A Architects who will put plumbing and electrical specifications together. Mr. DeBear stated painting, flooring and furniture costs should be solidified within the next few weeks. Once all the costs are in, it can be determined when the library will close and the work will begin.

Osborn commented a local business donated \$5,000 for the purchase of carpet and asked if it possible to check area carpet stores to get pricing. Mr. DeBear responded he can but that he usually deals with the factory and doesn't think it can be purchased any cheaper but he will check with anyone the City wants him to check with. He stated the carpet in place now is covering up terrazzo flooring and the original plan was to replace the carpet with new carpet but the plan now is to restore the terrazzo. King asked if the noise level would increase without the carpet and asked how the Library Board feels. Mr. DeBear responded noise level could increase slightly, but the Library Board did not convey any concerns. He gave an overview of the planned upgrades and showed Council samples of carpet, tile and paint that will be used for the upgrades.

Lockwood asked what the time frame is to complete the upgrades and what the down time for the library would be. Mr. DeBear responded he thinks the work should take place from October to November and thinks down time will be around 30 days.

Burns stated Steve Langley informed him the air conditioner needs to be replaced. It is old and parts are no longer available for repairs. Estimates for a new air conditioner were included with the meeting packet. Burns stated this will be paid for out of the \$300,000 budgeted for the library upgrades and as long as Council does not have an issue, he will approach the DDA about this next week.

EMPLOYEE AND RETIREE HEALTHCARE

Markland stated the City provides healthcare insurance to employees and retirees. A few years ago employees started paying 20% of the premium and currently the City offers a policy through Health Plus. The cost of this policy continues to increase and he asked Donnell Masak, Jeff Phillips and Tom Rupp to provide the City with other options. After reviewing many

options, Administration is focusing on a policy offered by Priority Health, which would offer good healthcare benefits at a reduced cost. The new policy would include a Health Savings Account (HSA). The City would deposit funds into each employee's account to be used to pay for the deductible for healthcare services. Whatever balance is in the account at the end of the year would remain in the account and the City would again deposit an amount into the account for the upcoming year. Upon termination or retirement, the remaining balance would belong to each employee to use for healthcare costs. The employee may also add their own funds to the account. Markland further stated the premium for the Priority Health policy is lower than previous health care costs which not only lowers the cost for the City, but also employees.

Osborn asked if the money in the HSA can be transferred from year to year. Tom Rupp responded the funds would roll over each year. He stated many different providers were approached and Priority Health really reached for the City's business. They made adjustments and exceptions to bring in hospital systems and doctors that were out of network for them. What is proposed for the City is a high deductible plan with an HSA arrangement. Employees would have a choice of a PPO or HMO plan.

Osborn asked for an explanation of the hospitals and doctors brought in that were out of network. Mr. Rupp explained that McClaren Hospital in Flint was out of network. Priority Health's underwriting has a travel network called First Choice Health which allowed McClaren to be added to the network under the PPO option.

Bland asked what differences there would be between the proposed policy and the existing Health Plus policy for retirees over the age of 65. Donnell Masak responded there would be no change for that group of retirees.

Grossmeyer asked how many area doctors are in network. Rupp responded he thinks the majority of doctors are in network; there is a Provider directory available or Priority Health's website allows users to search for a specific doctor to verify they are in-network. Osborn asked what hospitals in the area are in network. Council was provided a list of area hospitals included in Priority Health's HMO and PPO networks. Donnell Masak responded the only one not in network in the area was McClaren, but an exception was made to include them in the PPO network. She also stated Priority Health's HMO does not require a referral as long as the provider is in network.

Osborn asked what happens if someone travels outside the state. Mr. Rupp commented Priority Health has a large travel network. In the instance of an emergency, it would be treated as if someone was being treated by a local provider.

Osborn asked if the prescription plan is similar to the one currently in place. Mr. Rupp commented the current plan provides flat dollar co-pays. Under the HSA, the employee pays the entire cost, but that would go towards the deductible. Osborn asked that it be explained to employees that it is not out of pocket.

Markland commented meetings have been held with employees from each union group and more employee meetings are planned, but wanted to bring this to City Council first. He referenced Councilman Bland's earlier comment and stated the City does not provide full policies to retirees 65 and over. A Medicare supplement policy is provided, which is a lot less expensive than a full policy.

Donnell Masak stated savings would be just under \$100,000 if the City totally funds the deductible for active employees and contributes towards the deductible of employees under 65 years old. She stated retirees do not pay 20% of their premium so that is offset by them paying a portion of the deductible. She also stated the maximum out of pocket costs are \$2000 for an

individual and \$4000 for a family. These amounts include the deductible, which the City will be funding.

Grossmeyer asked if an employee can contribute their own money into their HSA via a pre-tax payroll deduction. Markland responded yes.

Osborn asked if certain pharmacies work with Priority Health to get the best price on prescriptions. Tom Rupp responded the network is Express Scripts which is a large national network of pharmacies. Osborn asked that employees be made aware there are certain pharmacies they can go to get the best price on prescriptions.

Lockwood commented she thinks this is a great opportunity for savings while still providing a solid health care program for employees. She is glad Administration is meeting with employees to answer their questions.

Item will be placed on the next City Council agenda for action. Markland thanked Tom Rupp, Donnell Masak and Jeff Phillips for their work.

PROPOSED MEDICAL MARIHUANA ORDINANCE

Patterson gave a brief background of the medical marihuana issue in Michigan. In 2008, there was a voter initiative to start the Medical Marihuana Act, which was subsequently enacted by the Legislature and is broken down into two areas - qualifying patients and primary caregivers. The Act governs medical use (which is defined in the statute) of marihuana (which is defined in the public health code). The proposed ordinance references those definitions as they've been promulgated by the State Legislature.

The Act provides for medical use of marihuana for a qualifying patient and provides an instrument by a primary caregiver to cultivate and grow a certain number of plants and through a state registry, provide marihuana to a qualifying patient. The statute specifies limitations on how much marihuana can be used, possessed and cultivated at any given time. A qualifying patient has the ability to possess or use no more than 2.5 ounces and can grow up to twelve marihuana plants and is not allowed to distribute to other individuals. A primary caregiver can grow up to twelve plants per each qualifying patient, not to exceed five patients. There is nothing that limits a primary caregiver from being a qualifying patient, for a maximum of seventy two plants. Patterson stated there are additional items set forth in the State Act that has been spelled out through court cases and additional amendments. He stated the ordinance addresses the cultivation and distribution of medical marihuana; it does not address how the state registry works or how to qualify for a medical marihuana card, those items are addressed at the state level.

Osborn asked if someone grows medical marihuana for themselves, do they have to contact the police department and certify they are growing just for themselves. Patterson responded there are specific state requirements a patient has to have, but there is no state requirement to register with the local Police Department. If the Department receives a call, to get immunity from prosecution under the statute, an individual would have to provide the proper documentation and registration cards. If they don't have that, an individual may not have immunity and could possibly be subject to criminal punishment.

Bland asked if the Police Department gets a list of who is qualified to grow medical marihuana in the City. Attorney Denise Pollicella, 4330 E. Grand River Avenue, Howell, responded that information is not public record and protected by HIPPA. She stated if a medical marihuana patient is carrying a card, a police officer can call the medical marihuana registry and confirm through a registry number that an individual is registered.

Patterson briefly reviewed section 7 of the Act which addresses prohibited acts. He stated the items listed are not addressed in the Ordinance since they are already addressed at the State level.

Patterson stated the recent Supreme Court decision in the *TerBeek v. City of Wyoming* case does not permit a municipality to completely ban the use of medical marihuana. The case did provide that local regulation for cultivation and distribution is appropriate and permitted under the State Act.

Patterson further stated section 2 of the proposed ordinance addresses medical marihuana cultivation in residential districts. This relates to what he spoke about earlier regarding qualifying patients being allowed to grow 12 plants in a residential area for their own consumption and use. The ordinance states a qualifying patient cannot cultivate more than twelve plants and has to do so in compliance with the Michigan Medical Marihuana Act. Section 3 of the ordinance addresses primary caregivers, who are individuals that typically grow more than twelve plants. The ordinance provides for that use in the industrial district. The industrial district section of the ordinance will have to be amended to provide for a special land use. The term “Medical Marihuana Distribution and Growing Facility” was added to the Ordinance and is further defined within the ordinance. Additional requirements regarding spacing, the amount of marihuana (must not exceed amount permitted by state law), storage, use, permits and distribution have also been included in the ordinance. The remaining sections of the ordinance are adding definitions to the ordinance.

Osborn asked how this would fit into uses in the industrial district, would it be considered manufacturing. Patterson replied there are certain special uses that are already provided for in the industrial district such as medical research facilities, labs and enclosed manufacturing facilities. An operation to grow medical marihuana does not have to be classified as retail or manufacturing since a definition is being added to what a facility is. Osborn stated part of the buildings are considered retail and are in the DDA district and other buildings are considered manufacturing or industrial and are part of the LDFA district. Patterson stated he will check into that.

Grossmeyer asked what would define a plant. For example, could a primary caregiver have starter seeds or seedlings plus the maximum amount of plants or as soon as the seeds are planted, those are counted as plants. Patterson responded the Medical Marihuana Act defines what marihuana is. Another portion of the act talks about incidentals that discusses seeds and other items involved with the process of growing marihuana. Grossmeyer asked if someone could have sixty plants ready to sell and then have other plants started, or just sixty total at any stage of growth. Patterson responded sixty at any stage.

King stated she is concerned with a lot of grow operations coming into the industrial park and asked if there is a limit on the amount of operations put in place. Patterson replied the proposed ordinance has a dimensional component. A medical marihuana distribution and growing facility must be 300 feet from any other distribution and growing facility.

King asked what happens if a primary caregiver sells to someone other than their assigned patients. Patterson responded state law provides for penalties in the Medical Marihuana Act; the Act only applies if an individual meets specific requirements provided in the Act. If someone is operating outside the Act, they are no longer immune from prosecution for selling and distributing marihuana. Patterson further stated this use is provided under a special use permit and the City charter and ordinances provide for revocation of special use permits.

McDermott asked if a patient can grow for themselves or do they also have to be a primary caregiver. Patterson responded a qualifying patient can grow up to twelve plants for themselves and does not have to be a caregiver.

Markland asked what happens to the plants if a patient passes away. Osborn asked what happens if the caregiver passes away. Does the establishment close down? Patterson stated he does not know but will check into it.

McDermott asked if the City would know what buildings in the industrial district were being utilized for the production of medical marihuana. Patterson responded a special use permit would be issued so the City would know what buildings are being used.

Aro asked if inspections beyond the standard inspections are required to ensure there are separate, locked facilities for each patient. Patterson said that is not provided for in the draft ordinance, but it can be added.

EXTENSION OF MORATORIUM REGARDING MEDICAL MARIHUANA

Patterson stated this Ordinance would extend the moratorium until September 1, 2014 which he believes will allow sufficient time for an Ordinance to be adopted.

A motion was made by Bland and seconded by Lockwood to enact Ordinance No. 680, which extends the moratorium regarding medical marihuana until September 1, 2014. Motion carried by a voice vote.

COUNCIL MEMBER COMMENTS

Lockwood asked for a status on Brad Hissong's replacement. Markland responded interviews are done and he will be making an offer of employment this week.

Lockwood stated at the Council budget session, money was allocated to hire a marketing individual to take over the role of New Moon and wanted to know the status. Burns responded it was discussed at the budget session, but it was his understanding no action was taken. The DDA was approached about hiring a marketing individual and they said no. They are happy with New Moon and wanted to continue with them.

McDermott stated at the budget work session Council asked for additional information on where money is being spent. King commented it was discussed about hiring a full time individual to save a lot of money over contracting work out, but doesn't think it was ever nailed down exactly what would be done, but there was a lengthy discussion. McDermott stated it was discussed about withholding a portion of the DDA budget but it was decided that would be a bad faith effort, so money was left in the budget but requested the DDA consult with Council before renewing a contract. Lockwood stated she thinks it's the best use of money to hire someone in house as she thinks marketing beyond the DDA district is needed and the entire City needs to be marketed due to all the economic development and special events taking place. She would like the message relayed to the DDA that Council is in favor of a full time marketing individual; that it would be less dollars than what the DDA is currently spending and still have the opportunity to have a professional individual available on a daily basis to handle the website and marketing for the City. Osborn stated the City couldn't have a marketing person for the entire City out of the DDA budget, additional money would have to be put toward it. Osborn asked this issue be placed on the next DDA agenda.

Lockwood asked if the water bill situation on Elmwood has been addressed and asked Markland to provide an update in the Friday memo. She commented two boxes of fireworks were collected after the Freedom Festival. She stated the tents that sell fireworks are allowed

under state law, but is concerned with the danger of fireworks being shot off in the same parking lot that are full of people and tents full of fireworks. She suggested the fireworks ordinance be looked at; she stated people have the right to sell fireworks, but feels they are in the wrong location. Markland suggested the businesses along Silver Parkway that allow the tents be contacted as this would be a liability issue for them.

Bland commented regarding the Freedom Festival stating the parade and food was excellent. The fireworks display was great and thinks it was a good day for the City.

Osborn commented regarding the Michigan Municipal League Convention in Marquette stating she needs to know tonight who will be attending. Council members Jacob, Lockwood, McDermott and Osborn confirmed they will be attending.

CALL TO THE AUDIENCE – Denise Pollicella commented for the last five years she has specialized in counseling the medical marihuana community and thanked Council for addressing the issue. She stated there is nothing in state law that requires dried, used medical marihuana to be securely locked and enclosed; that only applies to plants. The City can create additional rules and restrictions, but that is not required by law. She also stated legislation is coming; House Bill 4271 was introduced several years ago as House Bill 5580. The Bill passed the House in December and is in Senate Committee. She stated the Bill will provide protection and additional immunity for medical marihuana provisioning centers. She suggested the proposed ordinance be aligned with House Bill 4271. Patterson responded his office looked at House Bill 4271 when it passed and stated there is a provision to opt out. The plan would be to act on the ordinance currently proposed and then create a separate ordinance utilizing the opt-out provision in House Bill 4271. Two audience members addressed the Council regarding medical marihuana speaking in favor of allowing a dispensary in the City and commented regarding what is involved with being a qualifying patient or primary caregiver.

Meeting was adjourned at 9:38 P.M.

Mayor Sue Osborn

City Clerk, Renee Wilson

Date approved: August 11, 2014