

**MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF THE
PORTAGE CITY COUNCIL
OF NOVEMBER 30, 2017**

Mayor Patricia Randall called the meeting to order at 9:00 a.m. The following Councilmembers were present: Councilmembers Chris Burns, Richard Ford, Lori Knapp, Claudette Reid and Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Patricia Randall. Also present were City Manager Laurence Shaffer, Deputy City Manager Rob Boulis, City Attorney Randy Brown, Assistant City Attorney Charles Bear, Director of Community Development Vicki Georgeau, Director of Public Safety Nick Arnold and City Clerk Adam Herringa.

Mayor Randall welcomed everyone to the meeting and thanked them for attending. Mayor Randall asked City Manager Shaffer to introduce the discussion topic. Mr. Shaffer explained that City Council would be discussing and reviewing what an ordinance might entail for the various activities authorized under the medical marihuana statute. Mr. Shaffer explained that the meeting would begin with a presentation by Assistant City Attorney Charlie Bear who would highlight the legalities of medical marihuana in Michigan and related challenges and opportunities. Mr. Shaffer then explained that the Director of Community Development, Vicki Georgeau, would talk about a potential ordinance and schedule.

Assistant City Attorney Bear introduced the topic and began by reviewing a history of medical marihuana laws in the State of Michigan. Attorney Bear explained that, despite laws passed at the state or local level, marihuana remains illegal at the federal level. Attorney Bear provided an update as to where the State of Michigan is at with regulations and shared that there are many questions surrounding the situation but few answers. Mr. Bear then reviewed the Public Acts surrounding medical marihuana, highlighted the various types of licenses that are permitted, reviewed the State of Michigan licensing process, and detailed licensing options available to local units of government. Attorney Bear concluded by reviewing potential revenues and costs associated with the medical marihuana program and reviewed ordinance options and possibilities afforded to the City Council.

Director of Community Development Vicki Georgeau shared that City Administration has been working on the medical marihuana issue for more than a year and provided a history of local efforts in this regard. Director Georgeau highlighted the results of the 2017 Community Survey and stated her belief that the results indicate support for the City to take some type of affirmative action as it relates to medical marihuana. Director Georgeau next reviewed issues to be considered when determining what type, how many and where medical marihuana facilities could be licensed. Director Georgeau shared that the City is working on a draft ordinance and shared with City Council some of the factors that City Administration have been taking into consideration such as distances from schools, proximity to each other, size of operations and whether to limit the number of available licenses. Finally, Ms. Georgeau concluded the presentation by reviewing a potential timeline for implementing medical marihuana related ordinances.

City Manager Shaffer explained that this is one of the largest issues to face the City and stated that Administration is proposing a cautious and studious approach to get started. Mr. Shaffer stated that the program can always be expanded but it is difficult, if not impossible, to reign back in. Mr. Shaffer stated that City Administration is supportive of various types of licenses and highlighted grow operations as an example that fits with the agrarian history of the City. Mr. Shaffer also highlighted the retail and commercial nature of Portage and that he was supportive of retail establishments focused on medical marihuana. Mr. Shaffer then asked

City Council for their thoughts and ideas because, he stated, the City only has one chance to get this right.

Mayor Randall thanked Attorney Bear, Ms. Georgeau and Mr. Shaffer for the presentation and stated that City Council first started addressing the medical marihuana issue in 2008 and that, given state deadlines, the City of Portage needs to take action. She commented that, while the City could choose to do nothing, there is no law precluding residents from taking matters into their own hands via a petition drive. She shared her personal thoughts as it relates to marihuana and its medicinal value and her opinion that City efforts in 2008 did not go far enough. Mayor Randall encouraged positive action and expressed interest in hearing from the community in this regard.

Mayor Pro Tem Pearson stated that he was in favor of licensing medical marihuana facilities in Portage and expressed support for Portage residents to have access to a quality product. Mr. Pearson asked why the City was recommending only Class A Growers to be licensed. Director Georgeau explained that Administration is looking to be cautious at first and determine where to go next after the City gets experience in regulating the industry. Mr. Pearson then inquired what other industries have distance requirements in the City and Ms. Georgeau shared that day care centers and adult use facilities also have distance requirements. Mayor Pro Tem Pearson expressed his belief that a distance requirement of 1500 feet would unnecessarily limit opportunities. He also stated that he is against a lottery program for issuing licenses and that he would like to see a scoring or merit based system utilized by staff.

Councilmember Urban asked if you could “stack” grow licenses and Attorney Bear stated that, according to a bulletin from the Bureau of Licensing and Regulatory Affairs (LARA), only Class C growers are eligible to have multiple licenses. There was discussion regarding whether the same individual can hold three different licenses and whether such licenses could be co-located on a single site. Councilmember Urban then asked if medical marihuana operations would be a permitted use or a special land use. Attorney Bear explained that it would be a permitted use and shared that there are exemptions from disclosure associated with the medical marihuana licensing process that could prove problematic under a special land use program. Councilmember Urban next inquired about the State of Michigan’s “pre-qualification” for medical marihuana businesses. Director Georgeau explained that the City is proposing a “pre-qualification” requirement and pointed out that a business looking to get licenses in Portage will need to have a location specified when applying to the City. Mr. Urban inquired how the City would be measuring the distance between marihuana facilities, whether it would be “as the crow flies” or street by street. Ms. Georgeau stated that the City was reviewing this but that the maps provided to City Council were “as the crow flies.” Next, Mr. Urban inquired if the City were proposing one overall medical marihuana facility per 10,000 residents or if it was proposing one provisioning center per 10,000 residents. Ms. Georgeau stated that the City is still evaluating whether to recommend a total number of facilities or a total number per license type. Finally, Councilmember Urban stated that, given the location of greenhouses, marihuana grow operations would likely not be permitted at current locations and City Manager Shaffer concurred.

Councilmember Reid stated that there are many ways to permit and possibly limit the number of medical marihuana facilities. Ms. Reid inquired if the 3% tax on marihuana would be in addition to the 6% sales tax and Director Georgeau concurred. Councilmember Reid expressed concern with the use of 10,000 residents as a factor in determining the number of

medical marihuana facilities. Ms. Reid stated her belief that the Community Survey results demonstrate that residents are not at a place of widespread support and understanding of medical marihuana in the community. Councilmember Reid stated her opinion that citizens must be more involved in the process and that we must get the word out and solicit feedback. Ms. Reid highlighted 8 Mile Road in Detroit and its high concentration of medical marihuana shops and expressed hope that the City of Portage will make decisions that prevent a similar occurrence.

Councilmember Ford stated his belief that the medical community has accepted the value of medical marihuana and that the City must be progressive in this regard. Mr. Ford inquired whether a license could be revoked and Attorney Bear replied in the affirmative. Mr. Ford stated his desire to have quality businesses located in Portage and that residents from outside of the City should be able to come to Portage to obtain their medicine and cited pharmacies as an example. Mr. Ford stated his opposition to limiting the number of businesses and that staff can utilize a merit-based program to determine who receives a license. Mr. Ford also expressed his opposition to a 1500 foot distance requirement and asked whether we regulate pharmacies in a similar manner. Mr. Ford then inquired if we limit other types of businesses in Portage and Director of Public Safety Nick Arnold identified liquor licenses. Mr. Ford concluded by stating that having a reasonable distance rule would provide a cap on the number of medical marihuana businesses.

Councilmember Burns stated his belief that the Community Survey shows that residents are interested in supporting medical marihuana in the City. Mr. Burns then commented on the need for a better measure to calculate what the medical marihuana needs are in Portage and shared his belief that current licensing proposals would be insufficient. Mr. Burns inquired how City staff would come up with recommendations as to who would get a license. Director Georgeau stated that it would be a team approach involving multiple departments reviewing applications. She stated that some of the review would be subjective but expressed support for developing more objective criteria. Ms. Georgeau shared that she envisions a time period to accept, a time period to review and a time period for applicants to provide additional information. Ms. Georgeau stated that if there is no cap on the number of licenses, an in-depth selection process would be unnecessary. She continued by identifying approaches that some communities are using to select applicants such as a lottery, first-come, a scoring system, etc. Attorney Bear pointed out that, although licenses could be limited at first, the number could be expanded at any time. Councilmember Burns inquired if testing is required for the marihuana product and Attorney Bear responded in the affirmative. Mr. Burns stated that if the City does not permit testing facilities, those involved in medical marihuana would need to leave the City of Portage in order to get their product tested. Mr. Burns then inquired why the City was not proposing testing and transporting licenses. City Manager Shaffer explained that the City did not recommend transport or testing licenses because of the belief in the need to be cautious with the medical marihuana program and to begin with a narrower focus. Councilmember Burns concluded by asking about the December 15th date and Attorney Bear explained that this is the date at which time LARA will begin taking applications and expanded by stating that he does not anticipate applicants to LARA being “pre-qualified” before late January.

Councilmember Knapp expressed her opposition to a lottery system and that standards be developed to approve an application. She inquired if the City would adopt the same

standards as the State of Michigan and Attorney Bear replied in the affirmative and continued by stating that being pre-qualified by the State of Michigan would be a prerequisite to get a license in Portage. Ms. Knapp then inquired if a transporter was necessary if a grower and processor were located in the same facility. Mr. Bear replied in the affirmative.

Councilmember Ford inquired if a variance could be obtained for a medical marihuana operation and Ms. Georgeau responded on the affirmative. Mayor Pro Tem Pearson reiterated his objection to a 1500 foot distance requirement and asked City Administration to prepare maps that showed distances of 500 feet and 1000 feet. Councilmember Urban inquired about the tracking of medical marihuana and criminal penalties should someone be in possession of medical marihuana that was not prescribed to them. Attorney Bear replied that LARA has a tracking system and that accessibility to minors is a focus of LARA.

City Manager Shaffer thanked the community and those in the medical marihuana industry for being available to meet, discuss and answer questions.

Councilmember Reid inquired if it would be easier to monitor fewer large grow operations or several smaller operations. Director of Public Safety Nick Arnold shared that he is of the opinion that the City should be cautious in implementing medical marihuana and cited feedback he has received from colleagues in Detroit and Colorado. Mr. Arnold also pointed out that his department won't be dealing with those establishments that play by the rules. He expressed concerns regarding increased crime, break-ins, robberies, etc. involving medical marihuana establishments along with concerns about increases in instances of driving under the influence and in the safe disposal of medical marihuana.

Mayor Randall next invited public comment. Mr. Ryan Dickerson, 6033 Daniels Street, Kalamazoo, spoke in favor of permitting medical marihuana establishments in the community. Mr. Dickerson expressed opposition to limiting licenses and a preference to allow the Zoning Code to be the limiting factor. Mr. Dickerson shared his belief that state licensing requirements are stringent and will be a limiting factor on the number of individuals permitted to get a license. Mr. Dickerson expressed support for permitting larger grow operations and his belief that appropriate industrial space in the community for grow operations is limited. Finally, he expressed opposition to a lottery system for licenses.

Mr. Jevin Weyenberg, 5817 Cheshire Street, stated his belief that there are hundreds if not thousands of medical marihuana patients in Portage and that there needs to be regulation of the industry enacted by City Council. Mr. Weyenberg stated his belief that it is not fair to patients, providers or the community for medical marihuana to remain unregulated. Mr. Weyenberg also stated his belief that the community supports medical marihuana and cited the 2015 Charter Amendment as evidence. Mr. Weyenberg stated his support of the comments of Mr. Dickerson and that setting square footage requirements on grow operations is ill-advised. Testing and Transport licenses, he stated, should also be available at the outset in Portage. Mr. Weyenberg stated his support for a merit-based licensing process and not a lottery. In conclusion, he stated his belief that the City should enact an ordinance that provides dignified access to medical marihuana in Portage.

Dr. David Crocker, 6092 West B Avenue in Plainwell and proprietor of Michigan Holistic Health, shared his credentials as a medical doctor and expert in the field of medical marihuana. Dr. Crocker disclosed that he has over 870 patients from Portage involved with his Kalamazoo clinic and that dispensaries provide valuable healthcare when done properly. Dr. Crocker explained that the average patient age is 48 but that this age is rising as more seniors discover

the medicinal benefits of marihuana. Providing easy and functional access to medical marihuana, he stated, would be of tremendous benefit to the community. Dr. Crocker then took questions from the audience and City Council.

Mr. Todd Corstange, Corstange Greenhouses, 1714 East Centre, shared that Corstange Greenhouses has been in business for over 45 years. He inquired if the excise tax and license fee would offset administrative costs. City Manager Shaffer stated that he was unsure but skeptical. Any additional funding, he stated, would come from the General Fund but shared that this is no different than many other city programs and efforts. Mr. Corstange expressed strong support for the City of Portage enacting regulations rather than officials in Lansing citing the fact that local government officials live and work in the community and have a vested interest in success. Mr. Corstange shared details of grow operations in Canada and in the value in utilizing quality soil, lighting, water and safe chemicals to grow high quality plants whether the plants be flowers or marihuana. Mr. Corstange detailed how his products are tracked and shared that although the present location of his greenhouse on East Centre may not permit marihuana grow operations, he may engage in consulting or could consider leasing a facility elsewhere. Mayor Randall inquired how long it takes to grow a usable cannabis crop and Mr. Corstange replied that it varies because, like other crops, the plant responds to changes in humidity, soil ph, lighting, water, etc. In response to a question from Councilmember Reid, Mr. Corstange shared that Canada does not have restrictions based on number of plants but on yield.

Andrea Stork, 1515 Dogwood, shared that she was a resident of Portage and did not have a stake in medical marihuana. Ms. Stork pointed out that there were not many residents in the audience and stated her belief that the people in the room were not indicative of the Portage community. She implored City Council to make every effort to involve and solicit feedback from the public in this debate.

Mr. Ken Jonatzke, 8318 Portage Road, thanked City Council for their efforts to date and stated his support for allowing the licensing of medical marihuana facilities in the community. He stated his appreciation for being a caregiver and for the opportunity to treat patients with medical marihuana. Mr. Jonatzke pointed out that Portage is a regional destination and that individuals, when they come to Portage, enhance the local economy.

Mr. John Davis, 100 Pete's Cove, Battle Creek, spoke and stated his belief that a distance of 1500 feet is too great and potentially problematic. Mr. Davis encouraged the City to utilize a waiver period that would allow anyone currently operating the ability to get a license before restrictions take effect. Such a waiver period, he stated, would protect original businesses and limit those who arrive after the program is implemented.

Ms. Joanne Stewart, 8318 Portage Road, stated her belief that Portage is connected by its businesses and that businesses must be allowed to operate. Ms. Stewart also shared her belief that, in the years to come, marihuana will be just like any business in Portage and will grow and change over time. She encouraged City Council to be forward thinkers.

City Clerk Herringa shared that a letter from attorney Denise A. Pollicella, representing Lake Effect, was received in the Office of the City Clerk during the Committee of the Whole Meeting. Mr. Herringa read the letter aloud so that City Council and the balance of the audience could hear what was written.

In response to the letter, Mayor Pro Tem Pearson inquired if both an authorizing ordinance and a resolution were necessary to allow Lake Effect to continue operations and be

eligible to be licensed by LARA. City Attorney Randy Brown replied in the affirmative and shared that such an ordinance would need to be deemed an emergency and that, while it could be adopted at the December 5th Regular Meeting, City Council could hold a special meeting to address the matter. Mr. Brown continued by stating that any authorizing ordinance would be limited in size and scope and not necessarily specific to Lake Effect but more broadly to provisioning centers. Attorney Bear pointed out that the need for the ordinance and resolution is related to a recent bulletin put out by LARA and confirmed that action is necessary. City Manager Shaffer stated that he would have an emergency ordinance on the agenda for the December 5th City Council Meeting along with an accompanying resolution.

Mr. Devin Loker, 1595 West Centre Avenue, questioned whether, in light of the LARA bulletin referenced in the letter read by City Clerk Herringa if a conforming caregiver that currently operates as a home-based business in Portage would be considered a “previous operating facility” and be allowed to continue operations. Attorney Brown indicated that he could not provide a response at this time.

City Manager Shaffer stated that staff is committed to working on this issue and adhering to the proposed schedule and to the desires of City Council on this matter. Mr. Shaffer stated that he is not opposed to modifying current plans to include additional licenses nor to providing City Council with additional information.

Attorney Brown requested that City Council provide a summary of their thoughts related to a proposed ordinance. Councilmember Burns stated that he would like to see all five licenses be made available at the outset and would like to see maps provided that detail potential locations under less stringent distance requirements. In response to a question about the transferability of licenses, Attorney Bear summarized that licenses could be transferred provided there is state and local approval.

Councilmember Ford expressed a desire to reduce the distance requirement between facilities and to let the free market determine the appropriate number of businesses and operations. He stated his understanding that City Administration would like to take a cautious approach, reiterated that the City could suspend the licenses of bad actors and advocated for a thorough permitting process. In conclusion, Councilmember Ford stated his overall support for this endeavor.

Councilmember Knapp stated her support for the comments of Councilmembers Burns and Ford but stated that she is not supportive of a complete free market approach and that she would like to see maps that identify potential facility locations at distances of 500 feet and 1000 feet.

Councilmember Reid shared her belief that the City should initially move forward in a conservative fashion and advocated for authorizing a smaller number of facilities and expand over time. Ms. Reid expressed support for allowing fewer but larger growing and processing operations and shared that she is not in support of letting the market determine how many facilities should be located in Portage. She continued by expressing concern that failing medical marihuana facilities would simply transition to legal marihuana shops if a referendum allowing recreational marihuana use is approved by voters in 2018. Councilmember Reid concluded by stating her opinion that the City should be the controlling entity of market forces, at least in the beginning.

Councilmember Urban stated his agreement with Councilmember Reid with regard to market forces. Mr. Urban stated that he is opposed to unlimited licenses and expressed

support for one or two large grow operations. Mr. Urban continued by stating that he is supportive of a limited number of licenses in general and to make every effort to service residents of Portage and to not become the regional center for medical marihuana. Councilmember Urban concluded by stating his belief that the City should encourage testing facilities as these fit in the community better than growing facilities and cited the science and technology background of the City.

Mayor Pro Tem Pearson concurred with Councilmember Urban regarding testing facilities and also indicated his support for allowing transporters to be licensed as well. In addition to allowing all five types of licenses, Mr. Pearson stated that he would like to see all classes of grower licenses permitted. With regard to the number of licenses, Mayor Pro Tem Pearson stated that he would like to see more than a few licenses but not an unlimited number either and suggested that 12 of each type of license be considered. Mr. Pearson expressed support for a 60-day waiver for established businesses and to apply such restrictions as distance requirements thereafter.

Mayor Randall thanked staff, City Council and the audience for being present and for their involvement at the meeting. She expressed support for including testing and transporter licenses in addition to the other three license categories. Mayor Randall expressed concern about how the City would limit access to medical marihuana to only Portage residents. She continued by stating support for allowing all three grower licenses and stated her belief that the overall economic impact of permitting various types of medical marihuana operations in the City would outweigh the costs of administering the program. Mayor Randall stated that she is opposed to the lottery system of issuing licenses and encouraged the public to attend and participate in all City Council Meetings. She concluded by stating that she and City Council are committed to doing what is best for the community.

ADJOURNMENT: Mayor Randall adjourned the meeting at 12:28 p.m.

A handwritten signature in black ink, appearing to read "Adam Herringa", written over a horizontal line.

Adam Herringa, City Clerk