

The regular meeting of the Clare City Commission was called to order at 6:00 p.m. in the Commission Chambers by Mayor Pat Humphrey who led the Pledge of Allegiance. Present were: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Absent: None. Also present were Ken Hibl, City Manager; Steve Kingsbury, Treasurer; and Diane Lyon, City Clerk.

2. CONSENT AGENDA:

Moved by Commissioner Murphy second by Commissioner Swanson to approve the items listed with an asterisk (\*) (Amended Agenda, Minutes, Department Reports, Communications, First Reading of Ordinances 2017-004, 2017-005, 2017-006, Board & Committee Appointments, and Bills) that are considered to be routine by the City Commission. Ayes: All. Nays: None. Absent: None. *Motion Carried.*

3. \*APPROVAL OF MINUTES:

*Approved By Consent Agenda.*

4. \*APPROVAL OF AMENDED AGENDA

*Approved By Consent Agenda.*

5. PUBLIC COMMENT: Mr. Dave Ferguson, 206 E. Sixth St. stated that neighboring renters park on the city street in front of his home between the hours of 3:00 am and 6:00 am between November 15 and April 1 against City Ordinance. Mr. Ferguson has discussed this with the landlord who has recommended that he contact the police department to handle enforcement. Mr. Ferguson has contacted central dispatch for that purpose in the past but expressed concern about calling 911 to have police dispatched to enforce parking violations and has asked the Commission to consider other solutions to make parking in the street less palatable such as increasing fines. The Commission will consider the matter further to determine if there is a better, practical solution for enforcing parking restrictions.

6. UNFINISHED BUSINESS: None.

7. NEW BUSINESS:

**A. ORDINANCE 2016-004 – ZONING CHANGE (PROPERTY #18-002-10-013-21)**

The City has received a request from Mr. Jordan Rassam, an attorney representing Mr. Rashid Wagas of Lincoln Park, Michigan to change the zoning of approximately 6.43 acres of property he recently purchased from Commercial-1 to Industrial to accommodate their proposed \$2.5M investment to construct two 26,000sf industrial buildings and three accessory greenhouses on the aforementioned property parcel for use as medical marihuana grow and processing facilities.

The Future Land Use Map of the City's Master Plan stipulates the use of this property as Industrial, thus the request is in concert with and supports the City's Master Plan.

All ordinance code changes or amendments require the approval of the Clare City Commission. Chapter 52 (Zoning) amendments first require the review and recommendation(s) of the Planning Commission. Subsequent to the conduct of a public hearing, the City's Planning Commission considered the zoning change request on October 11, 2017 and unanimously recommended that the City Commission approve the request.

All zoning changes are required to be accomplished by ordinance. And all ordinances require two readings and approval of the Clare City Commission subsequent to a public hearing. The required public notices announcing the hearing have been published. Subsequent to the conduct of the hearing, the Commission has the options of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the ordinance/zoning change.

The City Commission is asked to conduct the required public hearing, consider and discussed the zoning change request, and direct a First Reading of the proposed Ordinance.

Property owner Scott Sykora was present as was Attorney Jordan Rassam who presented the plan for the property development on behalf of his clients. They plan to construct cultivation and processing facilities only; they do not intend to open a provisioning center.

Motion by Commissioner Swanson second by Commissioner Murphy to open a public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Public Comment: None.

Motion by Commissioner Swanson second by Commissioner McConnell to close the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Commissioner McConnell opposed approving a zoning change to accommodate more medical marijuana facilities because two others have already been approved.

Mr. Rassam offered that his clients are not interested in opening a provisioning center at this location; the operation will strictly house cultivation and processing. The facility being proposed by Mr. Rassam's clients will be much larger than the other approved facilities bringing money and jobs into the community, approximately sixty, \$15-\$20 dollar an hour jobs with benefits to area residents. These facilities will not be open to the public and there will be no indication that this is a medical marijuana operation from the exterior.

C/M Hibel reiterated that this (agenda item) is an Ordinance amendment to change property zoning, it is strictly a land use decision and our Future Land Use Map shows the property as industrial. A medical marijuana facility cannot operate until they have applied for a Site Plan and Special Use Permit, and have received approval from the Planning Commission. While the property proposed for rezoning is currently zoned commercial, our future land use map identifies this property as industrial. The basic tenant of zoning is our Land Use Map so this needs to be addressed as a zoning matter. The Master Plan was updated last year following lengthy deliberations by the Planning Commission. In discussing land uses for the Future Land Use Map the Planning Commission determined that the best zoning for property located south of Industrial Parkway should be industrial use because it is contiguous to the current industrial park which would allow for industrial expansion. Currently our zoning codes only allow medical marijuana in industrial districts and our Ordinance Codes provide distance requirements, thus the number of facilities and the areas where they can be placed is limited.

Mayor Humphrey pointed out that it wouldn't matter if the request to rezone was for an extruding plant or another manufacturing facility, they would still have to go through the rezoning process.

## **B. AUTHORIZATION FOR EXCEPTION TO PURCHASING POLICY**

The City's current purchasing policy stipulates purchasing approval limits for the City's department heads and the city manager and further outlines the requirements for cost/price quotations and purchase orders. Our water department makes repetitive purchases of ferric chloride throughout the year and each purchase requires that our Water Superintendent, Dale Clark, obtain quotations from three vendors and obtain purchase orders, which are controlled and issued by the Steve, then obtain my signature as the cost always exceeds Dale's approval limit and we always end up using the same vendor because no other vendor can match the price.

Our current purchasing policy is antiquated and unwieldy while simultaneously fostering significant inefficiencies (we estimate approximately ten HR hours are wasted annually for ferric chloride purchases alone). We are committed to improving and streamlining our current policy, but we simply haven't had the luxury of time to draft a revised policy for the City Commission's consideration. So until we can do so, I ask that the City Commission grant us an exception to our current policy specifically for our ferric

chloride purchases by providing our Water Superintendent the authority to make these purchases from a sole source without the requirement to obtain multiple quotes and obtain a purchase order for each purchase – very similar to the authority we've granted our airport manager for the purchase of aviation fuel.

Should the cost of the ferric chloride exceed \$5K for any single purchase, the expenditure would be brought before the Commission for their approval of the purchase.

Motion by Murphy second by Commissioner Swanson to approve the exception by adoption of Resolution 2017-134 Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

#### **C. AUTHORIZATION FOR WATER PLANT FILTER INSPECTION SERVICES**

The City's Water Treatment Plant has four aging pressure filters that have been in a state of disrepair and have needed rehabilitation or replacement for decades. Two of the filters are presently inoperative (the tanks have cracks and leaks) and have been recently removed from service. We are using one of the two remaining filters so we are quite confident it can be rehabilitated, but we don't know for certain how much life it has remaining. And the fourth filter has not been used for more than 30 years, thus it needs to be inspected to determine if we will need to replace it or if it can be rehabilitated – with very high hopes that it can be rehabilitated versus replaced, thus potentially resulting in significant savings (the difference in cost between rehabilitation and replacement).

Our end-goal is to have four operational, reliable filters. We know we will have to replace the two filters with the cracked tanks and believe strongly that it is worth the investment to have the other two filters inspected (one now and one after the other three filters are operational), thus we have solicited quotations for this inspection service. Two bids were received. We ask that the City Commission approve the bids for the inspection services and authorize the expenditure of funds for the low bid by Peerless Midwest.

Motion by Commissioner Bonham second by Commissioner Murphy to approve the bids and the inspection services of Peerless Midwest by adoption of Resolution 2017-135. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

#### **D. GFA ENGINEERING PROPOSAL-WATER SYSTEM IMPROVEMENTS**

The City's 2017/2018 Capital Improvement Plan (CIP) and fiscal budget includes major needed improvements to our public water system. We've been discussing the needed improvements with Gourdie-Fraser for nearly three years. Based on those discussions Gourdie-Fraser developed a prioritized Opinion of Probable Construction Costs itemizing the improvements. As reflected in the opinion, the total cost of the improvements is estimated to be \$2.5M - which we have determined to be unaffordable. Our comfort level is much closer to a cost in the neighborhood of \$1M. And we believe we can accomplish the major needed work (particularly the pressure filters and new water well) to improve our water system for at or near that significantly reduced dollar figure by using a methodical approach of analyzing each of the improvements and making a step-by-step decision on each of the needed work items – an example being the recommendation to have the pressure filter inspected rather than simply replace it, thereby potentially saving significant money.

But we know that we will have to finance a significant portion of whatever work we do as our Water Fund currently has an uncommitted reserve balance of approximately \$250K. We again intend to use the support of USDA for this funding, but to do so we will need a formal engineering proposal, thus we asked Gourdie-Fraser to provide us one for all the required work except the new water well as we intend to use Mr. Dan Whalen's (Williams & Works) services for this aspect of the improvement project. The City Commission is asked to accept and approve the Gourdie-Fraser proposal.

Motion by Commissioner Bonham second by Commissioner Murphy to approve recognition GFA's engineering proposal by adoption of Resolution 2017-136. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

**E. WILLIAMS & WORKS ENGINEERING PROPOSAL-NEW PUBLIC WATER WELL**

The City's 2017/2018 Capital Improvement Plan (CIP) and fiscal budget includes major needed improvements to our public water system, to include the addition of another water well to augment or replace one of our older existing decreasing-production wells. We've already initiated that process by drilling a test well at the City's new recreation complex. MDEQ has provided us a preliminary "thumbs-up" to proceed with the actual drilling of the new well at this site. Consequently, we've asked Mr. Dan Whalen of Williams & Works to provide us a proposal, for his engineering services to oversee the drilling of the well and construction of the well house and all its internal components. The City Commission is asked to approve the proposal.

Motion by Commissioner Bonham second by Commissioner Murphy to approve proposal by Williams & Works by adoption of Resolution 2017-137. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

**F. NOTICE OF INTENT RESOLUTION TO ISSUE WATER SYSTEM REVENUE BONDS**

In our attempt to control customer costs and concurrently make other much-needed improvements to our public water system (e.g., a new water tower, upgrading 4" water lines) we have been deferring needed improvements to our water treatment plant. These improvements have now become critical – particularly the need to rehabilitate and/or replace the iron removal pressure filters – and cannot be further deferred without the real potential of failure. Consequently the City Staff has completed the necessary staff work required for issuance of revenue bonds to finance the critically needed repairs and improvements.

The bond will generate \$1.5M. We believe we can judiciously reduce some of the estimated costs for the needed improvements and consequently not use the full amount of the bond; however, we believe we need that amount to ensure we have adequate funds to accomplish all the needed improvements in the event we are not as successful as we believe we can be in reducing costs. We estimate the impact would be an increase of approximately \$4.00 per month to our average residential customer if we have to use the entire amount.

The City Commission is now asked to approve the first formal step in the process to issue the bonds by issuing notice of the City's intent to do so.

Motion by Commissioner McConnell second by Commissioner Swanson to approve the resolution and direct publication of the notice of intent to bond by adoption of Resolution 2017-138. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

**G. WILLIAMS & WORKS RENEWAL OF RETAINER FOR LANDFILL ENGINEERING SERVICES**

The City of Clare has used the engineering services of Williams & Works – and more specifically, Mr. Dan Whalen of that organization – for consultations related to the Hatton Township Landfill for nearly three decades. Dan's opinion and counsel is highly trusted by the City and by MDEQ; he is well-known and respected by the Hatton Township Board and many of the Township residents he has interacted with in matters related to the landfill. We continue to need his invaluable services and likely will do so as long as we own the landfill. In 2014 we asked the City Commission to approve a retainer relationship with Dan and his firm to allow us to consult with Dan whenever the need arose, which it does on occasion without any notice. As it's been three years since we asked for the Commission's approval to do so, we feel it is appropriate to ask Dan for his proposal to renew that service; the Commission is asked to approve the renewal.

Motion by Commissioner McConnell second by Commissioner Murphy to approve the renewal of the retainer agreement by adoption of Resolution 2017-139. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

**H. ORDINANCE 2017-005 (SOLID WASTE DISPOSAL)**

Our current ordinance codes pertaining to solid waste do not include provisions that regulate when residential waste can be placed curbside. Consequently, we frequently encounter complaints of waste being placed there well in advance of scheduled pick-up dates causing a blighted condition, which is then routinely exacerbated by the fact that animals (dogs, raccoons, cats, possums) open the waste containers causing garbage to be littered throughout the respective neighborhood.

So we asked our City Attorney to draft an amendment to our current codes stipulating that residential waste is not to be placed curbside more than 24-hours in advance of scheduled collection times.

All ordinance code changes or amendments require the approval of the Clare City Commission. And all ordinances require two readings and approval of the Clare City Commission subsequent to a public hearing. The required public notices announcing the hearing have been published. Subsequent to the conduct of the hearing, the Commission has the options of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the ordinance/zoning change.

The City Commission is asked to conduct the required public hearing, consider and discuss the proposed amendment, and direct a First Reading of the proposed Ordinance.

Motion by Commissioner Bonham second by Commissioner Murphy to open a public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Public Comment: None.

Motion by Commissioner Bonham second by Commissioner Murphy to close the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

**I. ORDINANCE 2017-006 MEDICAL MARIHUANA REGULATIONS**

The City's Planning Commission, City Commission, and City Staff have spent innumerable hours and engaged in countless lengthy, often soul-searching, philosophical discussions in developing policy, rules, regulations, and ordinances for Clare since the electorate of Michigan voted to approve the legalization of medical marihuana in the state nearly nine years ago. Throughout that period the state's regulations and laws have evolved immensely. New, far more stringent laws and regulations are now in place to control the manufacture, distribution, and use of medical marihuana and to ensure public health and safety. Those regulations and laws are far different today than they were nine years ago. To ensure that the City's regulations and ordinances are in compliance with the state's new laws and to ensure the City's interests are protected – particularly in the realm of licensing as it pertains to medical marihuana – our City Attorney has drafted a stand-alone Medical Marihuana Ordinance and has recommended that the City adopt the ordinance.

All ordinance code changes or amendments require the approval of the Clare City Commission. And all ordinances require two readings and approval of the Clare City Commission subsequent to a public hearing. The required public notices announcing the hearing have been published. Subsequent to the conduct of the hearing, the Commission has the options of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the proposed ordinance.

The City Commission is asked to conduct the required public hearing, consider and discuss the proposed new ordinance, and direct a First Reading of that proposed Ordinance.

Our City Attorney, Jaynie Hoerauf, recommends that the Commission consider adoption of this Ordinance to handle regulation of medical marihuana facilities.

C/M Hibl offered that the State has established strict rules & regulations regarding medical marihuana (MMJ). It is now being controlled and tracked from seed to sale by LARA. Cards of MMJ cardholders are now only good for two years and cardholders must complete an annual physical recheck. Illegal dispensaries are being busted. MMJ facilities must be in compliance before they can begin operations and if they are found to be out of compliance, their license will be revoked by the State and by the city.

A main factor in developing the current medical marihuana ordinance, which took place over a lengthy period, was property owner rights. It was determined that the best way to control where these facilities located would be through zoning and MMJ operations were viewed as being no different than any other agricultural activity. The area available to site a MMJ facility in the city is very limited because two facilities have already been approved to date and there are minimum distance requirements so we are nearly saturated unless Mr. Sykora or Russell's build a road following city standards, through their property to access property further south. At the last Planning Commission meeting, Commissioners asked to revisit the Medical Marihuana Ordinance to consider limiting the number of provisioning centers within the city. Since only five members were present at that meeting, they have asked to revisit this topic at their next regularly scheduled meeting in November.

Commissioner McConnell favored the Planning Commission reviewing the current ordinance.

C/M Hibl noted that because the Planning Commission has already asked to revisit the Ordinance to limit MMJ facilities, the City Attorney will be drafting three models for the Planning Commission to consider at their next regular meeting.

Commissioner Bonham suggested there should be a buffer between commercial property and a medical marihuana facility. C/M Hibl offered that a landscape buffer is required between commercial and industrial property by Ordinance but the applicants have asked if it is possible to waive that requirement because the future land use map identifies the surrounding property as industrial use.

Motion by Commissioner McConnell second by Commissioner Swanson to open a public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

Public Comment: None.

Motion by Commissioner McConnell second by Commissioner Swanson to close the public hearing. Roll call vote: Yeas: Commissioners Bob Bonham, Pat Humphrey, Jean McConnell, Carolyn (Gus) Murphy, and Karla Swanson. Nays: None. Absent: None. *Motion Carried.*

**J. \*BOARD & COMMITTEE APPOINTMENTS – DDA**

**(1)** New Appointment-Greg Rynearson

*Approved By Consent Agenda. Resolution 2017-140.*

**(2)** Reappointment-Gus Murphy

*Approved By Consent Agenda. Resolution 2017-141.*

8. **TREASURER'S REPORT**

The Treasurer provided his report.

9. **\*DEPARTMENT REPORTS**

*Approved By Consent Agenda.*

10. **CITY MANAGER'S REPORT**

*Planning Commission Meeting.* The City Planning Commission met on October 11th to consider a zoning change request and special use permit application for a medical marihuana provisioning center; the Commission recommended approval of the zoning change and approved the special use permit request. The Planning Commission also met with representatives of the Clare IDC to discuss the current allowance of medical

marihuana provisioning centers in industrially-zoned districts of the City. Based on these discussions, the City Commission should anticipate a recommendation limiting/restricting the number of medical marihuana provisioning centers allowed in the City. The Planning Commission opted to discuss the matter further at its next regularly-scheduled meeting of November 8th as four of our nine Planning Commissioners were absent from the October 11th meeting, thus this matter will likely be forwarded for the Commission's consideration in November or early-December. The Planning Commission will meet in special session on October 25th to consider a request of the Herrick House to construct a 375sf addition to its building to accommodate additional cold and dry storage space.

Drain Commission Meeting. The Drain Commission met on October 11th and invited 54 property owners whose property is within the flood plain of the Little Tobacco Drain to discuss the possibility of purchasing their respective properties and demolishing the structures on those properties, thereby enabling the Drain Commission to obtain a FEMA grant to off-set a portion of the costs of the drain project. Approximately 15 property owners were in attendance; 11 of those in attendance elected to initiate the process to sell their property; the Drain Commission anticipates that additional property owners may still take advantage of this opportunity – particularly some of those who were not in attendance at the meeting. Mayor Pat and Commissioner Karla attended the meeting on behalf of the City; Clare County Commissioner Len Strouse also attended.

Project Updates. W. Seventh Street is complete except for asphalt. Paving will be accomplished at the same time that Beech Street and John R are paved. John R. Street sidewalks have been completed; water main replacement has been completed; new curb is being constructed (approx. ½ completed as of this morning). Beech Street is completed except for asphalt and driveway approaches, which will be accomplished at the same time the other streets are paved. We anticipate that paving of all three of the aforementioned street projects will be completed within the next two weeks. Ann Arbor Trail construction work has been completed and the roadway has been re-opened to vehicular traffic; however, there are four pedestrian crosswalk sites where storm water is collecting/pooling. Gourdie-Fraser has been informed that we will not accept the street until these sites have been “fixed”; GFA correspondence related to this matter is attached for the Commission's information. Airport Taxiway construction continues. Paving was scheduled for this week but was delayed – weather allowing, paving should be completed by Oct 13th. The airport runway will remain closed until the paving is completed and all electrical connections for the taxiway lighting have been made. New Sports Complex Update - Thielen Turf has completed installation of all the irrigation water lines; Murrin Seeding Company will commence seeding as soon as soil conditions allow them to do so; parking lot work continues; and our DPW is in the process of installing the irrigation system; the well pump and VFD have been ordered and should arrive within the week. The gravel parking lot is nearing completion.

Redevelopment Ready Community Agreement. The Mayor has signed the MOU between the MEDC and the City related to the RRC Program. We were advised this week that MEDC plans to host one of its next rounds of RRC Training (typically brings in about 30-40 attendees) in Clare.

Lake Shamrock Broad Meeting. The Lake Shamrock Association met on October 9th. Based on the results of that meeting and the apparent results of a new dredging survey conducted by the Association, they will petition the Lake Board to convene to consider initiating the assessment process to dredge the lake.

LARA Bulletin. The Michigan Licensing & Regulatory Administration (LARA) has issued the attached bulleting related to co-location of certain medical marihuana facilities. Our ordinance codes allow the referenced co-location.

Absence. I will be out of the state for the period October 19-24; Steve will be the Acting City Manager during my absence.

#### 11. \*COMMUNICATIONS

Approved By Consent Agenda.

FOIA Requests and Responses: The most recent FOIA correspondence was provided-Hovey, Moon, Dunn.

Attorney Blight Letter-Steve's Auto Trim & Glass: The City Attorney has again sent notification to Mr. LaLonde regarding a zoning violation and blight issues.

DOJ Notice of Compliance: The Department of Justice forwarded a Compliance Review Letter related to Accessibility of Polling Places under the ADA.

12. EXTENDED PUBLIC COMMENT: None.

13. COMMISSION DISCUSSION TOPICS: None.

14. \*APPROVAL OF BILLS  
*Approved By Consent Agenda.*

15. ADJOURNMENT  
Motion by Commissioner McConnell second by Commissioner Murphy to adjourn the meeting. Ayes: All. Nays: None. Absent: None. *Motion Carried.* Meeting adjourned at 7:13 p.m.

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Pat Humphrey, Mayor

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Diane Lyon, City Clerk