

CITY OF MUSKEGON  
PLANNING COMMISSION  
REGULAR MEETING  
MINUTES

**October 16, 2014**

Chairman T. Michalski called the meeting to order at 4:02 p.m. and roll was taken.

MEMBERS PRESENT: T. Michalski, B. Larson, L. Spataro, B. Mazade, S. Gawron, S. Wisneski, F. Peterson, B. Smith

MEMBERS ABSENT: J. Doyle, excused

STAFF PRESENT: M. Franzak, C. Brubaker-Clarke, D. Renkenberger

OTHERS PRESENT: M. Landis, Parmenter-O'Toole; M. Bear, 529 Houston Ave; S. Rinsema-Sybenga, Community EnCompass; K. Johnson, 1281 Montgomery; C. Ohs, 1239 Terrace; D. Warren, 123 Larch; J. EldenBrady, 1336 Spring St.; J. Montambo, Mercy Health

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of September 11, 2014 be approved, was made by B. Larson, supported by S. Wisneski and unanimously approved.

PUBLIC HEARINGS

**Hearing, Case 2014-12:** Staff-initiated request to amend the zoning ordinance to allow medical marihuana dispensaries in B-2 (Convenience and Comparison Business), B-3 (Central Business), B-4 (General Business), B-5 (Governmental Business), MC (Medical Care), I-1 (Light Industrial) and I-2 (General Industrial) districts. A copy of the proposed city ordinance on medical marijuana was provided to board members. The ordinance was approved at the September 23 City Commission meeting, but will have to go back for a second reading on October 14 because it was not unanimous, with one City Commissioner voting no. The city ordinance was written to allow medical marijuana dispensaries in B-2, B-3, B-4, B-5, MC, I-1, and I-2 districts. Currently, medical marihuana caregiver facilities are only allowed in I-2 districts. A medical marihuana dispensary is defined in the ordinance as one or more primary caregivers growing, storing, delivering, transferring, and/or providing qualifying patients with medical marihuana out of a building or structure. The Planning Commission is being asked to approve the districts in which these dispensaries will be allowed to operate as a principal use.

B. Smith arrived at 4:05 p.m.

B. Mazade verified that the City Commission had already approved the ordinance amendment. M. Landis stated that they had approved it with the understanding that it still required Planning Commission approval. S. Wisneski stated that the was not in favor of allowing medical marihuana facilities in business zoning districts.

No one in the audience wished to speak on this case. A motion to close the public hearing was made by L. Spataro, supported by B. Larson and approved.

A motion that the amendments to principal uses permitted sections of the B-2, B-3, B-4, B-5, MC, I-1

and I-2 districts of the Zoning Ordinance be recommended to City Commission for approval, was made by B. Larson and supported by B. Smith, with discussion continuing on the motion.

T. Michalski asked M. Landis why all of those zoning districts were included. M. Landis stated that the ideas was to keep the facilities from being concentrated in one area. B. Mazade was concerned with the “grow and cultivate” wording, which he thought was inappropriate for most of the zoning districts being considered. L. Spataro stated that he understood the concerns but there were currently people running marihuana operations in several locations, and the City needed to get a better handle on regulating them. He stated that there had been no clear direction from the Federal government. S. Wisneski asked if it would create problems for law enforcement, since Federal law superseded city ordinance. M. Landis explained that dispensaries and many other aspects of the medical marihuana ordinance are not address by Federal law. T. Michalski asked why the B-2 zoning district was included. M. Franzak stated that the expected use fit the density of use in that district. S. Wisneski was opposed to the inclusion of the business districts, and asked why the City was bothering to craft a new ordinance when the law was so fluid at this point. S. Gawron stated that it was important to have something in place that provided local control over the medical marihuana businesses. L. Spataro stated that the proposed ordinance would keep the businesses out of residential areas, and if the City did nothing, enforcement would revert to state law, where it is not addressed.

A vote was taken on the above motion to recommend approval to the City Commission and was approved, with B. Mazade and S. Wisneski voting nay.

## NEW BUSINESS

None.

## OLD BUSINESS

**Case 2014-11:** Staff-initiated request to amend Section 2313 (Community Gardens) of the zoning ordinance to replace it with an urban farming ordinance. Public comments for this case were heard at the September 11 Planning Commission meeting and the public hearing was closed. Staff was directed to take comments from Planning Commissioners, farmers and the general public, and to have a discussion about the proposed zoning ordinance amendment at the October meeting. Staff met with several farming groups on October 6 to discuss changes to the proposed ordinance. The following changes were written in the proposed ordinances: 1) 15-foot setback for tall crops in front, 5-foot setback on the sides and back if a fence is erected; 2) Crop areas and planting beds shall have the same setback requirements, 3) Allow low ornamental plantings within the setback areas; mulch may also be used except within the first 5’ of the front setback; 4) Temporary restrooms may be screened by plants or structures in lieu of fencing.

The board discussed some procedural issues. It was decided that members would ask questions of staff first, then allow public comments, even though the public hearing had been closed last month. M. Franzak stated that the changes he had come up with based on input gleaned in his meetings were minor, and were outlined in the staff report (see above). L. Spataro stated that he was in favor of community gardens, but his concern was still whether or not the gardens or farms would be subject to the Right to Farm Act if commercial sales were allowed. B. Mazade had several concerns with commercial farming and felt that the City was moving too far away from the community garden concept. He stated that the City’s dense urban areas were not suitable for commercial farming in order to generate profits. S. Gawron concurred that he too was in favor of community gardens, but that commercial farming raised a lot of other issues.

M. Bear spoke in favor of urban farming and allowing commercial sales of produce. She stated that it

helped employ people who might otherwise be unable to make a living. S. Wisneski suggested that the correct body to bring this issue before would be the state legislature, as it was state law that was restricting local governments on the issue. L. Spataro concurred that urban farming and related sales was a legislative issue. He stated that he was not ready to vote on an urban farming ordinance at this time. S. Rinsema-Sybenga spoke in favor of urban farming and associated commercial sales. She described the McLaughlin Grows program, stating that it provided neighborhood beautification, food production and access, work experience and job training. She stated that the urban farming movement was growing, and that selling their produce was key to their success. B. Smith asked if the school system was buying their produce. S. Rinsema-Sybenga stated that there was an exchange of resources. S. Wisneski reiterated that he felt the Planning Commission's hands were tied until there was a change in state law. M. Landis asked S. Rinsema-Sybenga what her plans were for increased commercial activity. She stated that were currently providing food to Chartwells for Muskegon Public Schools, and they had a CSA where they supplied members with produce for a fee. They hoped to have a sustainable farm/garden. K. Johnson was in favor of allowing commercial sales of produce, and stated that doing so would not automatically remove the City's authority under the Right to Farm Act. He stated that allowing commercial produce sales would benefit residents and put vacant lots to use. C. Ohs, D. Warren, J. EldenBrady, and J. Montambo spoke in favor of urban farms and allowing commercial produce sales.

A motion to refer the issue back to staff to address concerns mentioned was made by L. Spataro and supported by S. Wisneski, with discussion continuing on the motion.

B. Mazade stated that he had other issues with the proposed ordinance besides whether to allow commercial sales or not. He stated that he would only agree to delay action on the vote if there was some specific direction given to staff, as public input was considered and the ordinances revised after the last meeting.

A vote was taken on the motion to refer the issue back to staff. The motion failed with T. Michalski, B. Larson, B. Mazade, S. Gawron, S. Wisneski, F. Peterson, and B. Smith voting nay.

Board members discussed what would happen if no action were taken on the ordinances. B. Mazade believed that the proposed ordinances would go on to City Commission without a recommendation from the Planning Commission, and meanwhile, the current community gardens ordinance would remain in place. K. Johnson requested clarification. M. Landis stated that, since it was a zoning ordinance matter, it required Planning Commission action. T. Michalski stated that, since the Planning Commission took no action, the current ordinance would remain in effect.

## OTHER

None.

There being no further business, the meeting was adjourned at 5:15 p.m.