

**REGULAR MEETING OF THE OWOSSO PLANNING COMMISSION**  
**Council Chambers, City Hall**  
March 28, 2011

Meeting was called to order at 7:00 p.m. by Chairman Burton Fox.

The Pledge of Allegiance was recited by all in attendance.

Roll Call was taken by Recording Secretary Marty Stinson.

Chairman Fox stated it was good to see everyone in the audience. He asked that idle chatter be kept at a minimum and that everyone respect others while they were speaking.

**MEMBERS PRESENT:** Chairman Burton Fox, Commissioners David Bandkau, Trafton Jean, Francis Livingston, Jeff Peltier, Cindy Popovitch (arrived 7:23 p.m.), Thomas Taylor, and William Wascher.

**MEMBERS ABSENT:** Commissioner Christopher Brummel.

**OTHERS PRESENT:** Adam Zettel, Assistant City Manager and Director of Community Development; City Attorney Bill Brown; Michael Compeau, Public Safety Director, and many attendees in the audience.

**AGENDA APPROVAL:**

**MOTION BY COMMISSIONER TAYLOR, SUPPORTED BY COMMISSIONER BANDKAU TO APPROVE THE AGENDA FOR MARCH 28, 2011 AS PRESENTED.  
YEAS ALL. MOTION CARRIED.**

**MINUTES:**

**MOTION BY COMMISSIONER BANDKAU, SUPPORTED BY COMMISSIONER TAYLOR TO APPROVE THE MINUTES OF THE MEETING OF FEBRUARY 28, 2011.  
YEAS ALL. MOTION CARRIED.**

**COMMUNICATIONS:**

1. Staff memorandum
2. PC minutes from February 28, 2011
3. City council synopsis from March 21, 2011
4. Medical Marijuana Ordinance

**COMMISSIONER / CITIZEN COMMENTS:**

Chairman Fox stated there was no public hearing. Anyone wishing to speak may raise their hand. When they are recognized by the chair, they are to go to the podium, state their name and address and speak to the Planning Commission, not to the audience. There was a four minute time limit.

Several people spoke in varying degrees of opposition, acceptance, and support of the medical marihuana ordinance including Thomas Hitch, 601 Abbott Road, E. Lansing, an attorney for the Catholic Church; John Hankerd, 116 W. Exchange Street; Nicole Bruff, 409 N. Chipman Street; Shelva Cebulski, 1243 Marion Street; Tom Stamm, 9945 Corunna Road, Lennon; John Lester, 439 St. Mary Street, Corunna.

The comments were: lobbying for the discretion about 21 Herbal and the new business at the corner of S. Lansing Street and M-21 called the 5 & 10 Cent Herbal; the Michigan Medical Marihuana Act shows no language regarding dispensaries; no rights were created; marihuana is still illegal under federal law; this community has wide discretion; if you allow them, they will come; and some communities are not allowing them. A search on the Internet for 21 Herbal revealed they are advertising in Flint and on Craig's List. Also, 63% of the Michigan voters approved the Medical Marihuana Act including Shiawassee County; we need provisions for Owosso to help remove grey areas; the church brought this to the attention of the

children. This is a private school, not a public school. There are 27 children registered to have medical marijuana. A statement was made and was gavelled down by Chairman Fox.

Further comments were that the voters were misled when they voted on this issue. The Planning Commission was asked to consider special zoning. A cardholder who is helped a great deal [from using marijuana] stated the medical marijuana helps with the economy and brings money into the city. Also noted, don't consider this ordinance without the 1,000 foot ruling. We want to be careful about what and how it's allowed – crime rate around these places increases.

7:23 p.m. Commissioner Popovitch arrived.

Further comments by Lisa Stechschulte, 725 River Street; Salina Oliver, 8940 Monroe Road, Durand; Father John Fain, St. Paul's Catholic Church; Louise Hemond-Wilson, 500 E. Oliver; Andy Kenney, 1470 W. King Street; Stephanie Smith, 717 W. King Street; Rhonda Ihm, 739 N. Hintz Rd, Owosso; Steve Rosencrans, 419 Clinton Street; Joe Nowacki, 710 Ament; Doug Edwards, 189 Sylvia Drive, Corunna; Tom Dwyer, 651 Pasadena Drive; Merry Jane Robertson, 6139 Trenton Dr., Flint, principal of the St. Paul School; Ann Deweese, 318 N. Lansing Street; and Dave Simpson, 505 N. Cleveland Avenue.

Comments included asking the city to enforce all codes and to not grandfather the medical marijuana businesses in; people involved need to be educated and so do children; the community leaders need to do something about the ordinances soon and protect the community; caregivers can only serve five patients which preclude dispensaries - the needs can be met without dispensaries; we were misled - what about the grandfather issue; even if the business stays closed during school and mass times, there is still worry about basketball games, carpools meeting in the parking lot. This was a mistake. Make it right tonight.

Also stated was the act was to develop a relationship between the caregiver and the patient. Please limit the number of dispensaries. One who is both a caregiver and a patient talked about the zoning involved and that the ACLU has been notified of this ordinance. Others noted that he only sees young people going in these places; this is a land use issue and advised the commission to make a decision and regulated this; just looking out for the good of the kids whether it's a private or public school. These students will be the leaders tomorrow, so consider this for all the schools, not just one. How will this ordinance draft influence the current businesses; the city needs to think about the youth and take control of the town; marijuana establishments should be treated like the alcohol establishments – shouldn't be close to schools. Age should not be a concern for those going into an establishment.

## **BUSINESS ITEMS:**

### **1. Medical Marijuana Ordinance**

Several questions brought up by the audience were answered. City Attorney Bill Brown stated that according to the public health code, 21 Herbal is not illegal. Mr. Zettel commented that the effect of this ordinance will be to limit the number of marijuana businesses.

Commissioner Popovitch asked, we have no grounds to not grandfather businesses? Mr. Brown answered we do not have the option to outlaw something already established. He has met with the prosecutors and the state police. They understand our concerns. Mr. Compeau stated the state police are reviewing some things.

Commissioner Popovitch visited the dispensary in Westtown. They thought they could dispense to anyone with a card. Is that legal? Mr. Compeau stated that would be explored.

Commissioner Popovitch commented that she would like to see more comments from the public even on other than medical marijuana businesses. Chairman Fox stated that the ordinance would be forwarded to the city council and he thanks everyone for their input. The Council will have a public hearing at their second meeting in April per Mr. Brown.

**MOTION BY COMMISSIONER POPOVITCH, SUPPORTED BY COMMISSIONER LIVINGSTON THAT THE OWOSSO PLANNING COMMISSION HEREBY RECOMMENDS APPROVAL OF THE MEDICAL MARIJUANA ORDINANCE TO THE CITY COUNCIL, AS FOLLOWS:**

**AN ORDINANCE TO AMEND THE CITY OF OWOSSO ZONING CODE REGARDING MEDICAL MARIJUANA**

**Intent:** It is the intent of this Ordinance to give effect to the voter initiated Medical Marihuana Act, MCL 333.26421 while protecting the public health, safety and general welfare of persons and property within the City of Owosso with respect to the use, growing and dispensary of marihuana.

THE CITY OF OWOSSO Ordains that the City of Owosso Zoning Ordinance at Section 38-1 et seq. shall be amended as follows:

1. Section 38-5. Definitions shall be amended to add:

*Medical marihuana dispensary (or clinic)* means any retail store, store front, office building or other structure or any type of mobile unit or entity that dispenses, facilitates, sell, or provides, in any manner, marihuana or cannabis, any product containing marihuana or cannabis, or medical marihuana paraphernalia as described herein.

*Medical marihuana growing facility* means any building, or portion thereof, that allows cultivation, growing, processing or distribution of medical marihuana, excluding the cultivation, growing or processing allowed inside a qualifying patient's primary, legal residence.

2. Section 38-52, dealing with R-1 One-Family Residential Districts, Principal Uses Permitted shall be amended to add:

- (9) The establishment and operation of no more than two primary caregivers as defined by the Michigan Medical Marihuana Act, MCL 333.26421, et seq., provided that the dwelling is the primary residence of the caregivers and that the caregivers are in full compliance with said Act. "Primary residence" as used in this subsection means the one family dwelling in which the primary caregiver normally resides. The establishment and operation of more than two primary caregivers in the same dwelling is prohibited. The establishment of any primary care givers in R-2, R-T, RM-1 and RM-2 zoning districts is prohibited, Code sections 38-72(1), 38-122(1) and 38-147(1) notwithstanding.

3. Section 38-217(2)g, dealing with B-2 Planning Shopping Center Districts, Principal uses Permitted shall be amended to read:

- g. Medical marihuana dispensary or clinic provided that the medical marihuana dispensary or clinic is operated in full compliance with the Medical Marihuana Act, MCL 333.26421, and no medical marihuana dispensary or clinic shall be located within 1,000 feet of another dispensary, park & playground, or any public or private school, college, or university property, nor shall any dispensary be located within 500 feet of the following uses, as defined and measured by the Michigan Liquor Control Act, MCL 436.15031:

1. Any house of worship;
2. Any parcel zoned and used for residential purposes;
3. Any licensed day care facility.

[Note to codifiers: the previous Sections 38-217(2)g, and h. shall be moved to h. and i. respectively.]

4. Section 38-292, dealing with I-1 Light Industrial Districts, Permitted uses shall be amended to state:

8. The operation of a medical marihuana growing facility provided that the medical marihuana growing facility is operated in full compliance with the Medical Marihuana Act, MCL 333-26421, and no medical marihuana growing facility shall be located within 1000 feet of any other medical marihuana growing facility, park & playground, or any public or private school, college, or university property, nor shall any medical marihuana growing facility be located within 500 feet of the following uses, as defined and measured by the Michigan Liquor Control Act, MCL 436.15031:

1. Any house of worship;
2. Any parcel zoned and used for residential purposes;
3. Any licensed day care facility.

5. If any clause, sentence, section, paragraph or part of this Ordinance, or the application thereof to any person, firm, corporation, legal entity or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this Ordinance. It is hereby declared to be the legislative intent of this body that the Ordinance is severable, and that the Ordinance would have been adopted had such invalid or unconstitutional provision not have been included in this Ordinance.

6. All Ordinance or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Yeas All. Motion carried

#### **ITEMS OF DISCUSSION:**

##### **1. Master Plan Update**

Chairman Fox invited the public to be a part of the input for the master plan at upcoming meetings. A five minutes recess was called at 8:27 p.m.

8:37 p.m. Meeting resumed.

Mr. Zettel reviewed the master plan development so far for the audience. He stated that now we're gathering demographic data with the help of students from Michigan State University. The next step will be for them to present their findings and channel that information. The next step will be to create a public input strategy. The MSU student presentation will be on April 25 at the next regular Planning Commission meeting.

Commissioner Popovitch found the report bland in diversity. Mr. Zettel stated we need to continue the rental inspections and keep housing stock up to date.

Commissioner Popovitch suggested we reach out to service clubs and churches to help with the future survey. She also suggested holding a special event on Thursday night at an Amphitheater Concert.

Chairman Fox reviewed the timeline. Julie from Montrose suggested that You Tube and Facebook be used; also bars and McDonalds; that the board members go there and talk to people.

**COMMISSIONER / PUBLIC COMMENTS:**

Lisa Stechschulte said the website has got to go. We need more fresh air in the city, and Channel 96 is really messed up.

John Lester said the hours of operation for the marijuana businesses should be like a doctor's office. After dark, good things are not happening. The city needs a set number of marijuana businesses allowed for the city.

Doug Edwards commented regarding the Master Plan to get the Medical Marijuana wording in there good and solid.

Commissioner Popovitch asked the audience to send their comments to the City Council so they can look at it before the upcoming hearing. The dispensary isn't defined by law, so please taken these issues to the Council.

Commissioner Bandkau said that maybe this is the time to consider licensing businesses.

**ADJOURNMENT:**

**MOTION BY COMMISSIONER WASCHER, SUPPORTED BY COMMISSIONER BANDKAU TO  
ADJOURN AT 9:07 P.M.  
YEAS ALL. MOTION CARRIED.**

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Frank Livingston, Secretary

m.m.s.