



MEMORANDUM

301 W. MAIN ▪ OWOSSO, MICHIGAN 48867-2958 ▪ WWW.CI.OWOSSO.MI.US

DATE: December 17, 2018

TO: Mayor Eveleth and Owosso City Council Members

FROM: Amy Cyphert, Assistant City Manager & Community Development Director

SUBJECT: Planning Commission Recommendation to Adopt a Moratorium on Recreational Marijuana Establishments and Local Applications

BACKGROUND:

At the City Council meeting of December 3rd, the City Manager presented and recommended a moratorium for recreational marijuana establishments. During the discussion, City Council motioned to remand the subject to Planning Commission for their recommendation.

At their meeting on December 10th, the Planning Commission discussed the City Staff recommendation of a moratorium on the establishment of recreational marijuana facilities and the submission of local applications until LARA releases its regulations and application process guidelines.

Below are the reasons City Staff recommends and supports the moratorium:

1. The passing of a moratorium on recreational marijuana establishments no way places a moratorium on the usage of recreational marijuana. Recreational marijuana becomes legal to use, grow, and possess for any Michigan resident who is 21 years or older on December 6th.
2. Moratoriums were widely used by communities after the passing of Proposal 1 – Michigan Medical Marijuana Act. They allowed the State and communities time to establish rules and requirements.
3. A moratorium allows the Planning Commission and City Council time to amend the existing medical marijuana ordinance, hold the lottery and get medical marijuana provisioning centers operational.
4. We have yet to see the affects that medical marihuana facilities will have on the City and City's law enforcement.
5. Creating a recreational marijuana establishment ordinance before LARA establishes rules would not be an efficient way of authoring an ordinance. LARA's rules may result in revisions or a complete rewrite of said ordinance due to premature creation. - You would be expending time and money similar to the amendments being done currently for medical marijuana.
6. Waiting and doing nothing would be a worst idea for Owosso because if LARA releases their rules early, Owosso will automatically opt in with no controls in place. By the time, the city scrambles to get something in place after an automatic opt-in we could have situations of vested property rights in place regarding recreational marijuana establishments and nothing to solve the problem but a long and costly route through the court system with an uncertain result.
7. Proposal 1 Medical Marihuana was supported and went into effect in December of 2008. There were multiple revisions and court cases that altered the medical marihuana act from 2008 to 2015. The Medical Marihuana Facilities Licensing Act (MMFLA) of 2016 provided further guidance on dispensaries and clarified the legality of edible products in Michigan. The new law allowed licensed dispensaries to operate in communities that chose to allow them as well as licensing for growers, processers, testing facilities, and transporters. – These changes resulted in the City of Owosso having to amend the ordinance twice with a third time occurring currently.

After a discussion, Planning Commissioners made the motion to recommend that City Council adopt a moratorium on recreational marijuana establishments and local applications until after LARA has established the state regulations/application process and the City has adopted ordinance amendments to regulate recreational marijuana establishments. The motion passed 6-1-2.

RECOMMENDATION:

Recommend that City Council adopt a moratorium on recreational marijuana establishments and local applications until after LARA has established the state regulations/application process and the City has adopted ordinance amendments to regulate recreational marijuana establishments.

ATTACHEMENTS:

Planning Commission DRAFT Meeting Minutes 12-10-18

RESOLUTION NO.

**RESOLUTION AUTHORIZING A MORATORIUM
ON THE ESTABLISHMENT OF RECREATIONAL MARIJUANA FACILITIES
IN THE CITY OF OWOSSO**

WHEREAS, the people of the State of Michigan passed Proposal 1-2018 to allow recreational marijuana beginning December 6, 2018; and

WHEREAS, Proposal 1-2018 mandates that municipalities allow the establishment of recreational marijuana facilities unless they formally choose to opt out of allowing recreational marijuana facilities within their borders; and

WHEREAS, the Michigan Department of Licensing and Regulatory Affairs has until December 6, 2019 to establish rules and regulations regarding recreational marijuana facilities; and

WHEREAS, the City of Owosso considers it necessary and pertinent to establish a moratorium on the establishment of recreational marijuana facilities in order to allow the State to develop the rules and regulations that will govern recreational marijuana facilities; and

WHEREAS, the City of Owosso considers it necessary and pertinent to provide adequate time for the City to properly consider allowing recreational marijuana establishments under the rules and regulations put forth by the State of Michigan.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to establish a moratorium on the establishment of recreational marijuana facilities until such time as the State of Michigan Department of Licensing and Regulatory Affairs releases rules and regulations regarding recreational marijuana establishments and the City has had reasonable time to consider whether to allow the establishment of recreational marijuana facilities as governed by said rules and regulations.

**MINUTES
REGULAR MEETING OF THE OWOSSO PLANNING COMMISSION
COUNCIL CHAMBERS, CITY HALL
MONDAY, DECEMBER 10, 2018 – 6:30 P.M.**

CALL TO ORDER: Chairman Wascher called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE: Recited

ROLL CALL: Tanya Buckelew

MEMBERS PRESENT: Chairman Wascher, Vice-Chair Livingston, Secretary Janae Fear, Commissioners Jenkins (arrived at 6:31 pm), Lafferty, Law and Taylor

MEMBERS ABSENT: Commissioners Adams and Kirkland

OTHERS PRESENT: Assistant City Manager Amy Cyphert, Argus Press Reporter

APPROVAL OF AGENDA:

MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY COMMISSIONER TAYLOR TO APPROVE THE AGENDA FOR DECEMBER 10, 2018 WITH CHANGES:

1. MOVE NEW BUSINESS ITEM #6 TO OLD BUSINESS ITEM #2
2. OLD BUSINESS #4 CHANGE SEC 97-379 TO SEC 38-379
3. REMOVE NEW BUSINESS ITEM #5
4. CHANGE THE NEXT MEETING DATE YEAR TO 2019.

YEAS ALL. MOTION CARRIED.

APPROVAL OF MINUTES:

MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY COMMISSIONER TAYLOR TO APPROVE THE MINUTES FOR THE NOVEMBER 26, 2018 MEETING.

YEAS ALL. MOTION CARRIED.

OLD BUSINESS:

1. Review of Proposed Amendments to Chapter 26 – Sign Ordinance – Postpone

MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY SECRETARY FEAR TO POSTPONE THE REVIEW OF PROPOSED AMENDMENTS TO CHAPTER 26 – SIGN ORDINANCE UNTIL THE JANUARY 28, 2019 MEETING.

YEAS ALL. MOTION CARRIED.

6. **Planning Commission discussion and possible recommendation to City Council on a Recreational Marijuana Facility Moratorium – this agenda item was motioned by City Council. *This item was moved here to discuss before the Medical Marihuana Ordinance Amendments***

Ms. Cyphert explained the following in regards to recommending a Recreational Marijuana Establishments and Licensing Moratorium:

Background

At the City Council meeting of December 3rd, the City Manager presented and recommended a moratorium for Recreational Marijuana Establishments. During the discussion, City Council motioned to remand the subject to Planning Commission for their recommendation.

On December 6, 2018, recreational marijuana becomes legal to use, grow, and possess for any Michigan resident who is least 21 years or older. However, the Michigan Department of Licensing and Regulatory Affairs (LARA) has until December 6, 2019 to come up with rules and an application process regulating recreational marijuana establishments.

Staff Recommendation

City Staff recommends the adoption a moratorium on recreational marijuana establishments and local applications until LARA releases its regulations and application process guidelines.

Below are the reasons City Staff recommends and supports the moratorium:

1. The passing of a moratorium on recreational marijuana establishments no way places a moratorium on the usage of recreational marijuana. Recreational marijuana becomes legal to use, grow, and possess for any Michigan resident who is 21 years or older on December 6th.
2. Moratoriums were widely used by communities after the passing of Proposal 1 – Michigan Medical Marijuana Act. They allowed the State and communities time to establish rules and requirements.
3. A moratorium allows the Planning Commission and City Council time to amend the existing medical marijuana ordinance, hold the lottery and get medical marijuana provisioning centers operational.
4. We have yet to see the affects that medical marihuana facilities will have on the City and City's law enforcement.
5. Creating a recreational marijuana establishment ordinance before LARA establishes rules would not be an efficient way of authoring an ordinance. LARA's rules may result in revisions or a complete rewrite of said ordinance due to premature creation. - You would be expending time and money similar to the amendments being done currently for medical marijuana.
6. Waiting and doing nothing would be a worst idea for Owosso because if LARA releases their rules early, Owosso will automatically opt in with no controls in place. By the time, the city scrambles to get something in place after an automatic opt-in we could have situations of vested property rights in place regarding recreational marijuana establishments and nothing to solve the problem but a long and costly route through the court system with an uncertain result.
7. Proposal 1 Medical Marihuana was supported and went into effect in December of 2008. There were multiple revisions and court cases that altered the medical marihuana act from 2008 to 2015. The Medical Marihuana Facilities Licensing Act (MMFLA) of 2016 provided further guidance on dispensaries and clarified the legality of edible products in Michigan. The new law allowed licensed dispensaries to operate in communities that chose to allow them as well as licensing for growers, processors, testing facilities, and transporters. – These changes resulted in the City of Owosso having to amend the ordinance twice with a third time occurring currently.

Commission Action

Recommend that City Council adopt a moratorium on recreational marijuana establishments and local applications until after LARA has established the state regulations/application process and the City has adopted ordinance amendments to regulate recreational marijuana establishments.

Planning Commission Members expressed the need to continue moving forward on this subject and be ready when LARA releases the state regulations/application process.

Commissioners discussed the pros and cons of amending the current Medical Marijuana Ordinance to accommodate Recreational Marijuana.

MOTION BY VICE-CHAIR LIVINGSTON, SUPPORTED BY SECRETARY FEAR TO RECOMMEND THAT CITY COUNCIL ADOPT A TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS AND LOCAL APPLICATIONS UNTIL AFTER LARA HAS ESTABLISHED THE STATE REGULATIONS/APPLICATION PROCESS AND THE CITY HAS ADOPTED ORDINANCE AMENDMENTS TO REGULATE RECREATIONAL MARIJUANA ESTABLISHMENTS.

RCV

YEAS: SECRETARY FEAR, COMMISSIONERS JENKINS AND LAFFERTY, VICE-CHAIR LIVINGSTON, COMMISSIONER TAYLOR AND CHAIRMAN WASCHER

NAYS: COMMISSIONER LAW

MOTION CARRIED

2. Review of Proposed Amendments to Chapter 38 – Zoning Ordinance buffer zone requirements for medical marijuana businesses Sec. 38-197, Sec. 38-217, Sec. 38-242, Sec. 38-267, Sec. 38-292 and provide edits and/or schedule a public hearing for January meeting

MOTION BY COMMISSIONER LAW, SUPPORTED BY VICE-CHAIR LIVINGSTON TO SCHEDULE A PUBLIC HEARING FOR THE PROPOSED AMENDMENTS TO THE MEDICAL MARIJUANA ORDINANCE FOR THE JANUARY 28, 2019 MEETING.

YEAS ALL. MOTION CARRIED.

3. Review of Proposed Amendments to Chapter 38 - Zoning Ordinance industrial outdoor storage screening Sec. 38-292, Sec. 38-312, Sec. 38-393 and 38-389 and provide edits and/or schedule a public hearing for January meeting

MOTION BY COMMISSIONER LAW, SUPPORTED BY VICE-CHAIR LIVINGSTON TO SCHEDULE A PUBLIC HEARING FOR THE PROPOSED AMENDMENTS TO THE ZONING ORDINANCE INDUSTRIAL OUTDOOR STORAGE SCREENING FOR THE JANUARY 28, 2019 MEETING.

YEAS ALL. MOTION CARRIED.

4. **Review of Proposed Amendments to Chapter 38 – Zoning Ordinance amateur radio antenna regulations Sec. 97-379 and provide edits and/or schedule a public hearing for January meeting**

Ms. Cyphert stated she will add language for existing antennas.

MOTION BY COMMISSIONER TAYLOR, SUPPORTED BY COMMISSIONER LAW TO SCHEDULE A PUBLIC HEARING FOR THE PROPOSED AMENDMENTS TO THE ZONING ORDINANCE AMATEUR RADIO ANTENNA REGULATIONS FOR THE JANUARY 28, 2019 MEETING.

YEAS ALL. MOTION CARRIED.

OTHER BOARD BUSINESS:

At the last meeting there were questions about the Smith and Voss temporary sign that was used as a permanent sign. The code enforcement to correct the violation took a year and a half.

ADJOURNMENT:

**MOTION BY COMMISSION TAYLOR, SUPPORTED BY VICE-CHAIR LIVINGSTON TO ADJOURN AT 7:30 P.M. UNTIL THE NEXT MEETING ON JANUARY 28, 2019.
YEAS ALL, MOTION CARRIED.**

Janae L. Fear, Secretary