

Ad Hoc Marihuana Committee Report to City Council
September 2020



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Introduction and Mission

The City of Gaylord has received requests for marihuana businesses to conduct business in our City. The City currently has an ordinance that prohibits individuals from obtaining licenses to operate marihuana establishments in the City of Gaylord. A referendum and initiative petition was attempted against this ordinance, resulting in litigation in Circuit Court. Additionally, local business owners have encouraged the City Council to review the status of the Ordinance and perhaps allow for some changes to allow certain license opportunities to occur in our City.

The City Council then made a decision that an Ad Hoc Committee should be appointed to hold meetings to discuss, review, and potentially provide input on the drafting of a new ordinance to replace the existing "Opt Out" ordinance which is currently in place in the City. An open application process for becoming a committee member was established and the City Council appointed Mayor Wishart, Council member Al Witt, Council member Taylor Akin, Tiffany Larson, Mark Hansen, Paul Gunderson, Katie Lynn Kucharek, Casey Buckleitner, Dr. Steven Wisnicwski to serve on the Committee at a Council meeting held on March 9, 2020. The majority of the Committee members are residents of the City and all are residents of Otsego County. They are business owners, employees, concerned citizens, and health care professionals.

The Committee began its task in earnest on June 25th with its first meeting being conducted. Mayor Wishart chaired the meetings of the Committee and City Manager Joseph Duff and City Attorney Paul Slough were in attendance at nearly all the meetings. Due to the COVID pandemic the City was indeed prevented from meeting in a public and open forum until this time. The goal of the Council was to insure that all meetings were conducted in an open meeting forum that allowed public comments throughout the process and participation by its citizens. All meeting agendas were posted in display cases outside of the entrances to the City Hall at least 72 hours ahead of each meeting. Agendas and Minutes of all meetings were also posted on the City's website ahead and after each meeting to insure transparency throughout the process. The meetings were regularly attended by members of the press and general public. In and at all meetings time was allowed for public comment. During the course of the public comment period there were no individuals who spoke out against not proceeding with changes to the City's existing marihuana ordinance. Rather all comments were in favor of modifying the ordinance to for marihuana licensing opportunities within the City. A total of seven (7) committee meetings took place and the meetings were kept to a two hour limit to insure that time spent was efficient and substantive. The Committee set the meeting calendar at their first meeting and agreed to meet on the first and third Tuesday of July, August, and September. The calendar was published on the City's website and appeared in the Minutes of the June 25th meeting. The meetings ended on September 15, 2020.

Reviews and Presentations

The Committee began their work with a summary of the Michigan Regulation and Taxation of Marihuana Act (MRTMA) commonly known as the Recreational Marihuana Act and the Michigan Marihuana Facilities Licensing Act (MMFLA). The Committee reviewed materials handed out by the City

Manager on the Michigan Municipal League's (MML) publications entitled: "Recreational Marijuana Proposition"; Fact Sheet on "Medical Marijuana Facilities Licensing Act (MMFLA) compared with Proposal 1 – the Michigan Regulation and Taxation of Marijuana Act (MRTMA)"; and Dickenson Wright PLLC's "Recreational Marijuana Michigan Proposal 2018-1- Initiated Legislation Analysis of Municipal Governance Issues".

The Committee defined their task as reviewing whether or not the City should allow the following licenses to be considered in the City.

1. Growers – Class A (100 plant limit), Class B (500 plant limit), Class C (2,000 or more plant limit)
2. Processors
3. Secure Transporters
4. Safety Compliance Facilities
5. Retailers
6. Micro businesses – Which allow persons to cultivate not more than 150 plants; process and package; and sell or otherwise transfer marijuana to individuals who are 21 years of age or older or to a safety compliance facility, but not to other marijuana establishments.

In the course of the discussion and recommendation period the Committee asked for and received reports on the following information.

1. **Impacts on the City's Utility Systems** – Duff presented this information and the conclusions were that the City's daily capacity of water usage were at 1.967 million gallons per day. The system could accommodate up to an additional 2.5 million gallons per day. The wastewater average daily flows were at .551 million gallons per day. The plant can accommodate up to 1.13 million gallons per day. Therefore, both utilities capacity should be adequate for additional development activities. However, care should be taken and reviews completed prior to allowances of facilities without first seeing their numbers on anticipated uses of the utility.
2. **Review of Economic Impacts** – Duff reported that the OCEA was asked to supply information, but the information was not forthcoming. Duff did review the latest information on the City being 67.1% of its residents being considered low/moderate level of income. Duff reported that these income levels ranged for 1 to 8 person individuals and families as follows 1 person with an annual income of \$31,600 to 8 persons at \$59,550. This information is based on a study conducted by Lake Superior State University in 2015.

The conclusions of the Committee were that the City could indeed accommodate some of these new businesses. It also concluded that the poverty levels of the City indicate that good paying jobs are indeed needed in the community.

The Committee also asked for and had presentations from the following individuals to receive their perspectives on this issue.

1. **Law Enforcement Perspective** – Chief Claeys and Lt. Ken Mills, Straits Area Narcotics Enforcement (SANE) team. Chief Claeys provided information on Kalkaska and how they handle their businesses there. Chief indicated that he would prefer not to leave the organization of whether or not we have marihuana up to an advocate petition. He felt our community would be better served if action was taken at our end to regulate. Lt. Mills indicated that SANE is responsible for enforcing illegal drugs being sold, manufactured, or possessed. He said there has been a drop in marihuana cases over the last two years and only had two cases in 2019. Most of their efforts are now focused on opiates and methamphetamine.
2. **Fredric Facilities Grower, Drew Driver, Driven Grow LLC** – Mr. Driver operates a Class C Grow operation in Fredric. He has about 5,500 plants and grows for both medical and recreational use. Drew indicated that the industry is continuing to evolve and he doesn't see it at its maximum threshold yet. Drew feels the State does a very good job of regulation and that it is very difficult to attain State licensing. His operation is approximately 40,000 sq. ft. and has over 100 cameras monitoring all activities in the business. He employs 26 people as growers, processors, and in management positions. All receive benefits with starting wages at \$15 per hour. Facilities of his nature are also very expensive to build and construct.
3. **Craig Aronoff, Aronoff Law, State of Marihuana Industry in Michigan** – Mr. Aronoff reviewed the MRTMA on recreational marihuana with the Committee. He presented a power point presentation which laid out the various licenses needed. The preparation of ordinances take two forms one being police powers and the other the zoning provisions that are established. License fees are set at up to \$5,000 per license and these are annual. These fees also do not include fees associated with zoning permits, building permits, or construction fees. The Marihuana Excise Tax Fund is taken from sales through retail facilities and consist of 10% of gross sales. It is divided accordingly: 15% proportional shared between all retail centers municipalities throughout the State; 15% proportional shared between all counties where retail centers are located throughout the State; 35% to all School Aid public K-12 Schools throughout the State; 35% shared with MDOT for State road improvements. The first \$20 million in excise revenues per year is designated to Clinical research for Veterans through the year 2022.
4. **Brian Kandler, Tranquility Fields, Micro business** – Mr. Kandler is a consultant working for Honigman, an Attorneys' office down state, who is assisting Tranquility Fields with their marihuana license applications in communities. He indicated Tranquility Fields would be very interest in pursuing such an application with the City should a new ordinance allow. Mr. Kandler indicated the model used by Tranquility Fields is ready to assemble building model, which is attractive, clean, and provides quality air exchanging equipment that allows grow, sales, and processing facilities all at one location. As of yet no such buildings are up and operating in the State, but Tranquility Fields is waiting for approvals on several applications presented to various communities. He indicated their model is like a franchise where others operate the business once it is in place. Mr. Kandler indicated he would follow up with additional information to the Committee which he did at a later time.

Discussions and Recommendations

The Committee then began the task of formulating recommendations to forward onto the City Council. In the course of the discussions the Committee reviewed the zoning maps of the City to enable them to determine where the potential for each licensing application should be considered. The Committee also reviewed ordinances from the City of Lansing and the City of Niles to get a better understanding of the way others were regulating such businesses in their communities.

The Committee focused their discussion on the six (6) primary license applications to determine whether they should be allowed. Those licenses being as follows: Growers – all classes; Processors; Secure Transporters; Safety Compliance Facilities; Retailers; and Micro businesses. The Committee did not determine or offer any opinions on the other licenses available such as Marihuana Event Organizers, Temporary Marihuana Events, designated Consumption establishments, or excess grow licensing.

Growers and Processors – The Committee unanimously agreed that all three classifications of growing licenses and processors should be allowed in the City. The facilities for these licenses should be in the M-1 Zoning District. The Committee felt that the City need not restrict the number of these businesses and should rely on the market to set the number.

Secure Transporters and Safety Compliance Facilities – The Committee also was in agreement that these facilities should be allowed as well and felt that these facilities should be allowed in both the M-1 and C-1/C-2 Commercial Districts. The Committee again felt that the number of businesses should not be restricted and again allow the market to set the number.

The Committee did agree though that the City should have the ability to set in some cases higher standards than the State to insure odor control and other potential standards of nuisance are addressed so as not to impact other businesses.

Retailer and Micro businesses – The Committee had a more difficult time coming to agreement on these two licenses but all agreed they should have a place in the new ordinance. Common areas of agreement were as follows. The Committee all agreed that the M-1 District should be made available to these licenses and businesses. The Committee also was in agreement that these businesses should not be permitted in the B-1 Zoning District of our traditional Downtown. They felt that the DDA should also be asked for an opinion as to whether these classifications of businesses should be allowed in the remainder of the DDA District. This is the area along Main St. which extends westerly from the railroad tracks to the junction of I-75.

All were in agreement that certain restrictions should be placed on retail centers and micro businesses to insure that they are distanced away from churches, medical offices and centers, addiction prevention centers, schools, and day care facilities. The Committee felt that perhaps a Special Use Permit procedure should be developed to insure that certain restrictions are followed and better control the locations desired are suitable to the Planning Commission and City Council. The Committee also felt that the application fees of \$5,000 for each application category should be made as part of the ordinance with renewals of licensing done on an annual basis. The fee structure of the renewal should be one that does not overly compensate the City for unless it is indeed justified by the review time and

care taken in monitoring these businesses. This could be set by the City Council on an annual basis as recommended by the Administrative Staff.

The areas of disagreement were in the setting of the number of retail and micro business licenses. The most common agreed to number was two (2) retailers and two (2) micro businesses. Others felt that three (3) retailers and two (2) micro businesses was more appropriate. Whereas others felt they should be unlimited and the market set the numbers.

The Zoning Districts where these uses should be allowed was also discussed and unanimous agreement could not be reached as to locating these facilities in the C-2 Zoning District. Some felt that these businesses should have the same opportunities to sell their retail products as other businesses. Others felt they should be restricted to the M-1 District and those desiring their products will be able to find them.

The Committee also felt that in the preparation of an ordinance the City should do what it can to review the applications on merit. The Committee was in agreement that merit scoring should be included to distinguish applications. They felt that if possible those who are a part of community and have made significant contributions to it over the years should have some credit given extended. The Committee was also not in favor of a lottery selection for license selection.

The Committee was also aware and discussed the financial benefits of this business to the City. While they did not feel that this should be critical part of the decision making process, they also acknowledged that additional revenues could indeed have an impact on the City's financial position in a positive regard.