

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF DECEMBER 20, 2010**

Clark called the meeting to order at 7:32 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Clark led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Bruno, Clark, Ferris, Johnson, Naeyaert, Tornholm, Waltz
Absent: Councilmember: None
Also present: Martin A. Colburn, City Administrator
Deborah Cwierniewicz, City Clerk
Eric Smith, Finance Director/Treasurer
Tom Yeadon, City Attorney

ANNOUNCEMENTS

None.

PEOPLE FROM THE FLOOR

Dave Barnett of 427 South Jefferson stated that he felt that the proposed resolution declaring a temporary moratorium on the issuance of licenses for primary caregiver operations and dispensaries in the City of Mason goes against the vote of the people in 2008.

INTRODUCTIONS

Waltz introduced the Camino of St James Run/Walk Committee; Christopher Mumby - Chair, Doty Smith – Co-Chair, Valerie Engle - Course Chair, Cindy Engle - Course Co-Chair. Clark introduced Andrew Johnson, a boy scout earning his badge.

PRESENTATIONS

None.

CONSENT AGENDA

It was the consensus of Council to remove Agenda Item C) Motion – Ordinance No. 180 – An Ordinance to Amend Chapter Ten-Businesses—with the Code of the City of Mason by Adding Article III, Which Defines Medical Marijuana Operations and Dispensaries Operations, Requires a License and Sets Forth the Requirements to Obtain a License and the Effect of Having a License within the City of Mason; and Declaring an Emergency to Enact this Ordinance to be Effective Immediately upon Adoption as Necessary for the Preservation of the Public Peace, Health and Safety, and D) Resolution No. 2010-45 – A Resolution Declaring a Temporary Moratorium on the Issuance of Licenses for Primary Caregiver Operations and Dispensaries in the City of Mason, from the Consent Agenda.

MOTION by Naeyaert, second by Waltz,
to approve the Consent Agenda as follows:

1. Approval of Minutes – Regular Council Meeting: December 6, 2010
2. Approval of Bills
3. Resolution No. 2010-46 – Mayoral Appointments to City Boards and Commissions

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2010-46
MAYORAL APPOINTMENTS TO CITY BOARDS AND COMMISSIONS**

December 20, 2010

BE IT HEREBY RESOLVED, that the Mayor, with confirmation by the City Council, does hereby make the following appointments/reappointments to the specified boards and commissions of the city and that each term shall commence January 1, 2011 and expire on December 31 of the year noted.

Board of Ethics	Kathleen Dean	2013
	William H. Noud, Jr	2013
Building Code & Sign Board of Appeals	Ivan Kerr	2013
	Ken Brown (Sign Board of Appeals)	2013
	Eric Harter (Sign Board of Appeals)	2013
Dangerous Buildings Hearing Officer	Bruce Johnston	2013
Downtown Development Authority	Joe Ghinelli	2014
	Mark Howe	2014
	Bernard Camp	2014
Historic District Commission	Loren Shattuck	2013
	Marlon Brown	2013
Local Officers Compensation Commission	Angela Newton	2011
	William Shepard	2013
Planning Commission	Chris Burns	2013
	Nancy Cotter	2013
Traffic Commission	Roger Bauer	2013
Tree Commission	Melvin Brown	2011
	Leslie Bruno	2012
	Laura Duane	2013

4. Resolution No. 2010-47 – City Council Appointments to City Boards and Commissions

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2010-47
CITY COUNCIL APPOINTMENTS TO CITY BOARDS AND COMMISSIONS
December 20, 2010**

BE IT HEREBY RESOLVED, that the City Council of the City of Mason does hereby make the following appointments/reappointments to the specified boards and commissions of the City and that each term shall commence January 1, 2011 and expire on December 31 of the year noted:

Board of Review	Larry Briggs	2013
Building Authority	Mark Howe	2013
Cemetery Board	Scott Shattuck	2013
Local Development Finance Authority	William Shepard	2014
Utility Rate Study Committee	Shirley Richards	2013
	Angela Newton	2013
Zoning Board of Appeals	Doug Cripps	2013
	Pete Curtis	2011
	Bob McCormick	2013
	Linda Jakeway	2012
	(filling an unexpired term)	
	Harry Spenny	2013
	(alternate)	

5. Motion – Street Closure for Camino of Saint James 8K Run and 5K Walk

MOTION by Naeyaert, second by Waltz, to approve the request as outlined in the letters of Christopher Mumby/Camino of St James Run/Walk Committee, dated November 29 and December 9, for street closures and use of equipment for the second annual Camino of St. James Church 8K Run/5K Walk starting at 8:00 a.m. for the duration of approximately two hours on Sunday, August 14, 2011, in accordance with maps provided to the Police Department.

6. Motion – Request for Street Closures to Hold the Second Annual Sundried Music Festival

MOTION by Naeyaert, second by Waltz,
to approve the request as outlined in the letter from Marco Broggio, Downtown
Development Authority Director, dated December 6, 2010, for street closures, use
of equipment, electrical power, and waiver of permit and fees for the second
annual Sundried Music Festival.

MOTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

**Ordinance No. 180 – An Ordinance to Amend Chapter Ten-Businesses—with the Code of the
City of Mason by Adding Article III, Which Defines Medical Marijuana Operations and
Dispensaries Operations, Requires a License and Sets Forth the Requirements to Obtain a
License and the Effect of Having a License within the City of Mason; and Declaring an
Emergency to Enact this Ordinance to be Effective Immediately upon Adoption as Necessary
for the Preservation of the Public Peace, Health and Safety**

MOTION by Naeyaert, second by Bruno,
to consider Ordinance No. 180 and Resolution No. 2010-45 as considered read.

MOTION APPROVED UNANIMOUSLY

A brief discussion ensued regarding the citizen initiated law approved by the voters in 2008 allowing the use
of marihuana for medicinal purposes.

**CITY OF MASON
ORDINANCE NO. 180
AN ORDINANCE TO AMEND CHAPTER 10 - BUSINESSES - OF THE CODE OF THE CITY OF
MASON BY ADDING ARTICLE III WHICH DEFINES MEDICAL MARIHUANA OPERATIONS AND
DISPENSARIES, REQUIRES A LICENSE AND SETS FORTH THE REQUIREMENTS TO OBTAIN
A LICENSE AND THE EFFECT OF HAVING A LICENSE WITHIN THE CITY OF MASON**

THE CITY OF MASON ORDAINS:

Article III of Chapter 10 - Businesses - of the Code of City of Mason and sections 10-70, 10-71, 10-72, 10-
73, 10-74 and 10-75 are hereby added to the Code of the City of Mason to read as follows:

ARTICLE III - MEDICAL MARIHUANA

Sec. 10-70. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings
ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Michigan Medical Marihuana Act.

Dispensary means a structure, lot or premises from which two or more primary caregivers sell,
deliver or otherwise dispense medical marihuana to patients.

Marihuana means that term as defined in section 7106 of the public health code, 1978 PA 368,
MCL 333.7106.

Patient means any person to whom a primary caregiver delivers marihuana pursuant to the Act.

Primary caregiver means a person who is licensed and defined under the act as a person who is at
least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has
never been convicted of a felony involving illegal drugs.

Primary caregiver operation means a structure, lot or premises from which a primary caregiver
sells, delivers or otherwise dispenses medical marihuana to a patient.

Qualifying patient means a person who has been diagnosed by a physician as having a debilitating
medical condition.

Registry identification card means a document issued by the department of community health that
identifies a person as a registered qualifying patient or registered primary caregiver.

Usable marihuana means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.

Sec. 10-71. Required; fee; application.

- (a) No person shall operate a primary caregiver operation or operate or assist in the operation of a dispensary without having first obtained and without being in possession of a valid license issued by the city clerk.
- (b) Application shall be made annually on forms provided by the city clerk which shall require the full legal name and date of birth of each caregiver and address of the intended location of the primary caregiver operation or dispensary, a copy of each caregiver's registry identification card, the number of registered patients for each caregiver and the maximum amount of usable marihuana and maximum number of marihuana plants the caregiver operation or dispensary may have on the property at any one time. The application shall state whether any electrical devices designed to assist in the growing of medical marihuana will be used in conjunction with the license, whether any structural modifications have been made or are intended to be made in conjunction with the license. The application shall be accompanied by any required building, electrical or plumbing permits.
- (c) The initial application fee shall be \$250.00 for each primary caregiver operation and \$100.00 per caregiver for each dispensary. Renewal fees shall be established by annual budget resolution of the city council.

Sec. 10-72. Conditions of issuance.

The city clerk shall not issue an initial or renewal license until such time as all of the following conditions have been met:

- (a) A completed application has been submitted to the clerk with the required fees that accurately states the lawful amount of usable marihuana and marihuana plants an applicant may have on the property at any one time.
- (b) Proof that an annual inspection has been conducted by the Mason police department and the police department certifies that the facility is in conformity with the state law and city ordinances. The police department may, as part of its inspection, require building officials and/or the fire department inspect the property prior to certification to ensure that it is in conformity with state law and city ordinances should the police suspect, during their inspection, that unreported or non-permitted structural alterations have been made, unreported or non-permitted electrical modifications have been made, unreported or non-permitted electrical devices are being used, otherwise unsafe electrical connections or overloaded circuits are present or unreported or un-permitted plumbing modifications have been made in conjunction with the license.
- (c) Where the application identifies electrical devices are being used or intended to be used to assist in the growing of medical marihuana, proof that the fire department has inspected and approved the use or proposed use and that any necessary permits for electrical alterations have been obtained.
- (d) Where the application identifies structural modifications have been made or are intended in conjunction with the license, proof that the appropriate building code officials have inspected the property and issued the necessary permits.

Sec. 10-73. Conduct of licensee.

- (a) Each licensee shall, as a condition of obtaining and maintaining a license, agree to comply at all times with all applicable local and state building, zoning, fire, health, and sanitation statutes, ordinances, and regulations.
- (b) The premises shall be operated and maintained at all times consistent with responsible business practices and so that no excessive demands will be placed upon public health or safety services, nor any excessive risk of harm to the public health, safety, or sanitation.
- (c) The premises shall at all times be operated in compliance with all applicable provisions of this code and the act.
- (d) The licensee shall immediately notify the city clerk of any changes in the names or additions and reductions in the number of primary caregivers operating from any structure, lot or premises within the city and pay the appropriate application fee for each increase in the number of primary caregivers.

Sec. 10-74. Effect of license; suspension, penalty.

- (a) A license is valid only for the location identified on the license and cannot be transferred to another location within the city without a new application.
- (b) Conducting a primary caregiver operation or a dispensary is a violation of federal law. A license does not prohibit prosecution by the federal government of its laws. Nor does a license prohibit prosecution by state authorities for violations of the act or other violations not protected by the act. A valid license shall not be construed as providing any protection beyond prosecution by the city of Mason for conducting a primary caregiver operation or a dispensary without a license.
- (c) Compliance with city ordinances and state statutes is a condition of maintenance of a license and a license may be suspended for cause pursuant to the provisions of this chapter.
- (d) Suspension of a license is not an exclusive remedy and nothing contained herein is intended to limit the city's ability to prosecute code violations that may have been the cause of the suspension or any other code violations not protected by this act.
- (e) No person who has not been identified as a primary caregiver on an application with the city clerk, or subsequent filing with the city clerk pursuant to the requirements of this article, shall be deemed to be licensed.
- (f) Any changes to the act or any decisions by a court of competent jurisdiction which would render a license issued under this article void or otherwise ineffective, shall result in the immediate expiration of any license issued under this section.
- (e) Each day that a person shall conduct a primary caregiver operation or a dispensary without a license shall constitute a separate offense.

Sec. 10-75. Confidentiality.

Names and addresses of applicants and any licensed primary caregivers under this article shall be confidential information and shall be maintained as confidential records not subject to disclosure, except to other authorized employees of various city departments as is necessary to perform their official duties under this article. No records or information shall be released except upon order of a court of competent jurisdiction.

Declaration of need to be effective immediately

This ordinance is declared to be immediately necessary for the preservation of the public peace, health and safety and shall be effective upon adoption.

Number of council members present (7).

Number of affirmative votes (7).

The foregoing Ordinance was moved for adoption by Council Member Waltz and seconded by Council Member Tornholm with a vote thereon being: YES (7) NO (0), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the 20th day of December, 2010. Ordinance No. 180 declared adopted this 20th day of December, 2010.

ORDINANCE APPROVED UNANIMOUSLY

Resolution No. 2010-45 – A Resolution Declaring a Temporary Moratorium on the Issuance of Licenses for Primary Caregiver Operations and Dispensaries in the City of Mason

Following the adoption of Ordinance No. 180, a moratorium was considered to take into account future regulation determinations by the State and to allow staff to further study regulation of dispensaries and primary caregiver operations. The statement offered by a citizen during People from the Floor claiming the a moratorium was against the vote of the people was discussed. City Attorney Tom Yeadon confirmed that moratoriums do not go against the act. There was further discussion regarding providing the means for licensing and then prevent anyone from becoming licensed.

Resolution No. 2010-45 was introduced by Tornholm and supported by Waltz.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2010-45
A RESOLUTION DECLARING A TEMPORARY MORATORIUM ON THE
ISSUANCE OF LICENSES FOR PRIMARY CAREGIVER OPERATIONS AND
DISPENSARIES IN THE CITY OF MASON**

WHEREAS, the People of the state of Michigan have adopted, by initiative, the Michigan Medical Marihuana Act (the "Act"); and

WHEREAS, the Act authorizes primary caregivers to assist qualifying patients in obtaining medical marihuana by allowing the primary caregiver to grow, possess, and deliver limited amounts of marihuana to the patients and receive compensation for doing so; and

WHEREAS, the Act's provisions have resulted in primary caregivers combining to form what has come to be termed "dispensaries" in adjacent municipalities in which multiple registered primary caregivers operate from a single building to create situations in which amounts of marihuana greater than the act would otherwise allow for a single primary caregiver are being possessed and stored on single lots and properties; and

WHEREAS, the Act does not regulate or even necessarily allow for dispensaries and many significant aspects of the operation of a dispensary could affect the health, safety and welfare of the citizens of the city of Mason; and

WHEREAS, the Act does not regulate many significant aspects of the operation of a primary caregiver that could affect the health, safety and welfare of the citizens of the city of Mason; and

WHEREAS, the City of Mason intends to regulate primary caregiver operations and dispensaries to ensure the health, safety and welfare of its citizens; and

WHEREAS, the City of Mason, as part of the regulatory process, has adopted an ordinance requiring primary caregiver operations and dispensaries to be licensed; and

WHEREAS, the City of Mason is in the process of considering and studying how to effectively regulate dispensaries and primary caregiver operations to meet the intent of the Act while preserving the health, safety and welfare of its citizens; and

WHEREAS, the City Council desires that no licenses be authorized or issued in the city of Mason for dispensaries or primary caregivers while a study is being conducted to determine the appropriate and necessary regulations;

NOW, THEREFORE, BE IT RESOLVED that:

1. No applications for licenses for primary caregiver operations shall be accepted and no licenses shall be issued from the effective date of this resolution and while the moratorium enacted by this resolution or any subsequently adopted resolutions which may extend this moratorium shall remain in effect.

2. No applications for licenses for dispensaries shall be accepted and no licenses shall be issued from the effective date of this ordinance and while the moratorium enacted by this ordinance or any subsequently adopted ordinances which may extend this moratorium shall remain in effect.

3. This limited moratorium on the issuance of primary caregiver operation licenses and dispensary licenses shall continue in effect for 180 days from the effective date hereof while this matter is being studied.

Yes (6) Bruno, Clark, Ferris, Naeyaert, Tornholm, Waltz

No (1) Johnson

RESOLUTION APPROVED

UNFINISHED BUSINESS

Discussion was held regarding city employees not wearing seat belts in City vehicles. Colburn stated that he is addressing that with the divisions of public works.

NEW BUSINESS

None.

Clark stated that the membership of all boards and commissions are filled and he thanked everyone who volunteered to serve.

CORRESPONDENCE

All correspondence was distributed.

LIAISON REPORTS

- Naeyaert informed Council regarding current Planning Commission business.

COUNCILMEMBER REPORTS

None.

ADMINISTRATOR'S REPORT

Colburn informed the Council regarding current City business.

EXECUTIVE SESSION

MOTION by Naeyaert, second by Waltz,
to adjourn to executive session to discuss the City Administrator's evaluation.
Yes (7) Clark, Ferris, Johnson, Naeyaert, Tornholm, Waltz
MOTION APPROVED UNANIMOUSLY

ADJOURNMENT

The meeting adjourned at 7:57 p.m.

Deborah J. Cwierniewicz, City Clerk

Leon R. Clark, Mayor