

MANISTEE CITY PLANNING COMMISSION

Meeting of Thursday, January 6, 2011

7:00 p.m. - Council Chambers, City Hall, 70 Maple Street,
Manistee, Michigan

AGENDA

I CALL TO ORDER

II ROLL CALL

III APPROVAL OF AGENDA

At this time the Planing Commission can take action to approve the January 6, 2011 Agenda.

IV APPROVAL OF MINUTES

At this time Planning Commission can take action to approve the December 2, 2010 meeting Minutes.

V PUBLIC HEARING

None

VI NEW BUSINESS

Sub-Committee Appointments

According to the By-Laws of the City of Manistee Planning Commission the Chair will appoint members of the Planning Commission to serve on Sub-Committee's of the Planning Commission.

By Law Review

According to the By-Laws of the City of Manistee Planning Commission shall annually review their By-Laws at the regularly scheduled meeting in January.

At this time the Planning Commission could take action to make changes to their By-Laws if necessary.

Master Plan Review

Under Section 125.3845, Sec. 45 (2) "At least every 5 years after adoption of a master plan, a planning commission shall review the master plan and determine whether to commence the procedure to amend

the master plan or adopt a new master plan. The review and its findings shall be recorded in the minutes of the relevant meeting or meetings of the planning commission.” The Master Plan for the City of Manistee was adopted on December 5, 2002. The Planning Commission Master Plan Sub-Committee has been working on updating the Plan.

At this time that the Planning Commission could take action to continue their work on rewriting the City of Manistee Master Plan.

VII OLD BUSINESS

Former Harbor Village Sales Office, 100 Marina Drive - Parcel Split

A request was received at the September Planning Commission Meeting for a Parcel Split that would remove the former Harbor Village Sales Office, 100 Marina Drive from parcel 51-202-300-00. The Planning Commission postpone action for the applicant to supply additional information.

Medical Marihuana

The Planning Commission can continue their discussion on Medical Marihuana.

VIII PUBLIC COMMENTS AND COMMUNICATIONS

At this time the Chair will ask if there are any public comments.

IX CORRESPONDENCE

At this time the Chair will ask if any correspondence has been received to be read into the record.

X STAFF/SUB-COMMITTEE REPORTS

At this time the Chair will ask Staff for their report.

At this time the Chair will ask if any of the Sub-Committees have anything to report.

XI MEMBERS DISCUSSION

At this time the Chair will ask members of the Planning Commission if they have any items they want to discuss.

XII ADJOURNMENT



PLANNING AND ZONING
COMMUNITY DEVELOPMENT
231.398.2805
FAX 231.723-1546
www.ci.manistee.mi.us

MEMORANDUM

TO: Planning Commissioners
FROM: Denise Blakeslee 
DATE: December 28, 2010
RE: January 6, 2011 Planning Commission Meeting

Commissioners, the following items are on the January 6, 2011 Planning Commission Meeting Agenda:

New Business:

Sub-Committee Appointments - According to the By-Laws of the City of Manistee Planning Commission the Chair will appoint members of the Planning Commission to serve on Sub-Committee's of the Planning Commission.

By Law Review - According to the By-Laws of the City of Manistee Planning Commission shall annually review their By-Laws at the regularly scheduled meeting in January.

Master Plan Review - Under Section 125.3845, Sec. 45 (2) "At least every 5 years after adoption of a master plan, a planning commission shall review the master plan and determine whether to commence the procedure to amend the master plan or adopt a new master plan. The review and its findings shall be recorded in the minutes of the relevant meeting or meetings of the planning commission."

Old Business:

Former Harbor Village Sales Office, 100 Marina Drive - Parcel Split - This request was postponed to allow the applicant to submit additional information.

Medical Marihuana - The Planning Commission will continue to discuss issues relating Medical Marihuana.

If you are unable to make the meeting please call or leave a message 398-2805.

CITY OF MANISTEE
PLANNING COMMISSION
BY-LAWS AND RULES OF PROCEDURES

1. AUTHORITY

These By-laws and Rules of Procedures are adopted by the Planning Commission of the City of Manistee, County of Manistee, (hereinafter referred to as the Commission) pursuant to Public Act 110 of 2006, as amended, the Michigan Zoning Enabling Act; Public Act 33 of 2008, as amended being the Michigan Planning Enabling Act, the City of Manistee Zoning Ordinance, and the Public Act 267 of 1976, as amended, the Open Meetings Act.

2. OFFICERS

2.1 Selection. At the December meeting, the Planning Commission shall elect a chair, vice-chair and secretary who shall serve for the next twelve (12) months and who shall be eligible for re-election. Vacancies in an office of the Commission shall be filled at the next regular meeting of the Commission. The membership shall elect one of its members to fill the vacancy until the next annual election.

2.2 Duties. The chair shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein.
The vice-chair shall act in the capacity of the chair in the absence of the chair or in the event of a vacancy in the office of chair; in which case, the Commission shall select a successor to the office of vice-chair at the earliest practicable time.
The Secretary shall be responsible for execution of documents in the name of the Planning Commission, the preparation of minutes, keeping of pertinent public records, delivering communications, reports, and related items of business of the Commission, issuing notices of public hearings and performing related administrative duties to assure efficient and informed Commission operations. The Secretary may appoint a Recording Secretary to handle the administrative functions of the office. In the event the Secretary is absent, the chair or acting chair shall appoint a temporary secretary for such meeting.

2.3 Tenure. The officers shall take office at the first regularly scheduled meeting immediately following their election. They shall hold their office for a term of one year, or until their successors are elected and assume office.

3. MEETINGS

- 3.1 Meeting Notice. Notice of all meetings shall be posted at City Hall by December 31st of each year. The notice shall include the date, time and place of the meeting. Any changes in the date or time of the regular meetings shall be posted and noticed in the same manner as originally established. When a regular meeting date falls on or near a legal holiday, the Commission shall select suitable alternate dates in the same month, in accordance with the Open Meeting act.
- 3.2 Removal from Office. The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.
- 3.3 Commission Absences. In order to maintain the maximum participation of all appointed Planning Commission members at all scheduled meetings, the following is the attendance guide and Commissioner replacement policy for “excused” or “unexcused” absences:
1. When appointed, each Commissioner should state his/her willingness and intention to attend each scheduled meeting of the Planning Commission.
 2. In the event of unplanned personal matters, business trips, family vacation trips, changed job requirements, sickness, or other physical disabilities that prohibit the Commissioner from attending the scheduled meeting; the Commission Chair or staff Liaison to the Planning Commission should be notified as soon as possible prior to the time of the scheduled meeting of their inability to attend. The Commissioner upon this notification will receive an “excused absence” for the involved scheduled meeting.
 3. If any Commissioner is absent from three (3) consecutive scheduled meetings without an “excused absence” for any of the three (3) meetings, the Commissioner shall be reported in writing to the City Manager. The City Manager will contact the Commissioner in writing and question his/her continued ability or interest in being on the Commission, giving the member a chance to rectify the attendance issue or submit a resignation.
 4. There will be no limit on the number of consecutive “excused absences” for any Commissioner. However, if the Commissioner is repeatedly absent for at least 50% of the yearly scheduled meetings, that member will also be reported in writing to the City Manager. The City Manager will contact the Commissioner in writing and question the member’s continued ability or interest to be on the Commission. The Commissioner will be considered for an appointment nullification when the absences total six in the calendar year.

5. The appointment nullification action would be initiated by the City Manager and forwarded on to the City Council for official action.

3.4 Special Meetings. A special meeting may be called by three members of the Planning Commission upon written request to the Secretary or by the Chairperson. The business which the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the Open meeting Act. Public Notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meeting act, and the Secretary or Recording Secretary shall provide notice to commission members by writing, telephone, or e-mail.

3.5 Quorum. In order for the Commission to conduct business or take any official actions, a quorum consisting of at least five of the nine members of the Commission shall be present. When a quorum is not present, no official action, except for the closing of the meeting may take place. The members of the commission may discuss matters of interest, but shall take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next regular or special meeting and no additional public notice is required provided the date, time and place is announced at the meeting.

3.6 Public Hearings. Hearings shall be scheduled and due notice given in accordance with the provisions of the Acts and Ordinance cited in Section 1. Public hearings conducted by the Planning Commission shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure.

1. The Chair of the Planning Commission shall announce that a public hearing will be conducted on a request.
2. The Chair may read the public hearing announcement as published in the newspaper and give a brief description of the hearing subject and the public notice procedure.
3. The Chair may announce the following hearing rules:
 - a. The Chair will recognize each speaker. When a speaker has the floor, he/she is not to be interrupted unless time has expired. Persons speaking without being recognized shall be out of order.
 - b. Each speaker shall state their name and address for the record and may present written comments for the record.
 - c. Speakers shall address all comments and questions to the Planning Commission and comments will be limited to the subject matter of the Public Hearing.
 - d. Unless waived by the Planning Commission for a specific meeting or a specific speaker, public comment shall be limited to five (5) minutes per speaker, one time

only. If a group of people wish to be heard on one subject, a spokesperson may be designated who may request that more than five (5) minutes be permitted for collective comments of the group as presented by that speaker.

- e. The Chair may require that repetitive comments be limited or abbreviated in the interest of saving time and allowing others to speak. Everyone shall have an opportunity to speak before someone is allowed to speak a second time.
 - f. The Chair may establish additional rules of procedure for particular hearings as he/she determines appropriate.
 - g. Normal civil discourse and decorum is expected at all times. Applause, shouting, outbursts, demonstrations, name-calling or other provocative speech or behavior may result in removal from the hearing or an adjournment.
4. Once all public comments have been stated, the Chair shall close the hearing. Any voting member of the Planning Commission may initiate a motion to close the hearing.
 5. Public Hearings may be carried out in the following format:
 - a. The Chair shall open the hearing.
 - b. The Applicant shall present any comments and explanation of the case. Applicant's presentation shall not be subject to the five (5) minute limitation.
 - c. The City staff and any consultants serving the City shall present their reports.
 - d. The hearing will be opened for public comment.
 - e. The public comment period will be closed.
 - f. Deliberation and discussion by the Planning Commission.
 - g. Disposition of the case by the Planning Commission.

3.7 Motions. Motions shall be restated by the Chair before a vote is taken. The name of the maker and supporter of each motion shall be recorded.

3.8 Voting. An affirmative vote of the majority of those members present shall be required for the approval of any requested action or motion placed before the Commission. Voting shall ordinarily be by voice vote; provided however that a roll call vote shall be required if requested by any Commission member or directed by the Chairperson. All members of the Commission including the Chairperson shall vote on all matters, but the Chairperson shall vote last.

3.9 Order of Business. A written agenda for all regular meetings shall be prepared as followed. The order of business shall be:
Call to Order.
Roll Call

Approval of Agenda
Approval of Minutes
Public Hearings
New Business
Old Business
Public Comments and Communications
Correspondence
Staff Reports
Members discussion
Adjournment

A written agenda for special meeting shall be prepared and followed, however the form as enumerated above shall not be necessary.

- 3.10 Rules of Order. All meetings of the Commission shall be conducted in accordance with generally accepted parliamentary procedure as adopted by City Council for all Boards and Commissions within the City of Manistee.
- 3.11 Agenda Items. For an item to be considered at a regular Planning Commission meeting, it must be submitted to the City Community Development Department no later than the established policy of the City prior to the next scheduled Planning Commission Meeting.
- 3.12 Conflict of Interest: Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission.
1. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
 - a. A commission member issuing, deliberating, voting or reviewing a case concerning himself.
 - b. A commission member issuing, deliberating, voting or reviewing a case concerning work on land owned by himself.
 - c. A commission member issuing, deliberating, voting or reviewing a case involving a corporation, company, partnership, or other entity in which he is a part owner, or any other relationship where he may stand to have a financial gain or loss.
 - d. A commission member issuing, deliberating, voting or reviewing a case which is an action which results in a pecuniary benefit to himself.
 - e. A commission member issuing, deliberating, voting or reviewing a case concerning

- his spouse, children, step-child, grandchildren, parents, brother, sister, grandparents, parents in-law, grandparents in-law or member of his household.
- f. A commission member may consider the possibility of declaring a conflict of interest if his/her home falls within a notification radius used for a Public Hearing. Because the sending of the notice automatically presumes some degree of interest, this fact should be recognized by declaring a conflict, particularly if a financial impact is likely.
 - g. A commissioner who feels, in his/her judgement that his/her job, scope of duties and/or position may be at risk, pending the outcome of the permitting process.
2. A commission member shall, when he/she has a conflict of interest do the following immediately, upon the first review of the case and determining a conflict exists:
- a. declare a conflict exists at the beginning of the meeting where the case appears on the agenda, or when the topic brought up so such declaration is recorded in the minutes, and
 - b. refrain from participating in the discussion, site inspection or review of the case, except where specific information has been requested by the commission, and
 - c. refrain from casting a vote on any motion having to do with the case.

4. MINUTES

- 4.1 Preparation. Commission minutes shall be prepared by the Secretary or Recording Secretary of the Commission. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording votes; complete statement of the conditions or recommendations made on any action; and recording of attendance. All communications, action and resolutions shall be attached to the minutes.

5. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- 5.1 All meetings of the Commission shall be open to the public and held in a place available to the general public.
- 5.2 All deliberations and decision of the Commission shall be made at a meeting open to the public.
- 5.3 A person shall be permitted to address a hearing of the Commission under the rules established in subsection 3.5, and to address the Commission concerning non-hearing matters at the time designated for such comments.

5.4 A person shall not be excluded from a meeting of the Commission except for breach of the peace, committed at the meeting.

5.5 All records, files, publications, correspondences, and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act.

6. COMMITTEES

6.1 Executive Committee. The Executive Committee of the Planning Commission shall consist of the Chair, Vice -Chair and Secretary. The Executive Committee shall be the Joint Ordinance Review Committee.

6.2 Committees. The Planning Commission or Chair of the Planning commission may establish and appoint standing and/or ad hoc committees for special purposes or issues, as deemed necessary. No more than four members of the Planning Commission may serve on a standing and/or ad hoc committee at any given time. Committee appointments shall be made at the first regular meeting held in January of each year or at the time the committee is formed.

6.3 Rules of Procedure. All Sub-committees are subservient to the Planning Commission and report their recommendations to the Planning Commission for review and action and shall be conducted in accordance with generally accepted parliamentary procedure as adopted by City Council for all Boards and Commissions within the City of Manistee.

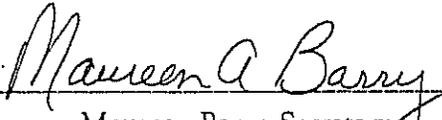
7. ANNUAL REVIEW OF BY-LAWS

The Commission shall annually review their By-Laws at the regularly scheduled meeting in January.

8. AMENDMENTS

These rules may be amended by the Commission by a concurring vote subject to subsection 3.7, during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

I HEREBY CERTIFY that the above Bylaws were adopted the 9th day of July, 2009.


Maureen Barry, Secretary

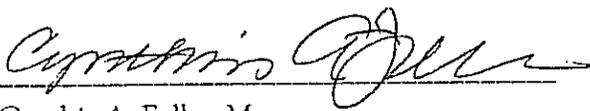
As Amended by the Planning Commission at their regularly scheduled meeting of March 5, 2009.

[Amendments included requirements of the new Michigan Zoning Enabling Act and Michigan Planning Enabling Act.]

[Annotation: As approved by the City Council at their June 2, 2009 Meeting - Council authorized the bylaw amendments for all Boards and Commissions to include the new Board Absences language; directed all boards or commissions to implement and follow these changes as Council has requested; and authorized the Mayor to sign the amended bylaws.]

Approved by the City of Manistee Council

July 21, 2009
Date


Cynthia A. Fuller, Mayor



MEMORANDUM

Planning & Zoning
Community Development
231.398.2805
Fax 231.723-1546
www.ci.manistee.mi.us

TO: Jon Rose, Community Development Director
George Saylor, City Attorney
Dave Bachman, Chief of Police

FROM: Denise Blakeslee 

DATE: December 15, 2010

RE: Medical Marihuana Ordinance

Gentlemen, I spoke with Jay Kilpatrick (Planner of Record) today on a Zoning Issue. During the conversation we got on the topic of Medical Marihuana. Jay is assisting several communities with ordinances and I discussed what we were working on. Jay has several townships that he is assisting and they do not have Police Power Ordinances and are trying to deal with the issue under the Zoning Ordinance.

While he felt that a Police Power Ordinance was the best way to go he did mention that in one community they are including in their ordinance language that "prohibits retail at a Caregiver's Location". This requires that the Caregiver deliver the product to the Patient and eliminates traffic at the Caregiver's location. This also allows the police to issue a ticket in the event that the Caregiver is selling from his home.

Just a discussion point for our review of the Ordinance.

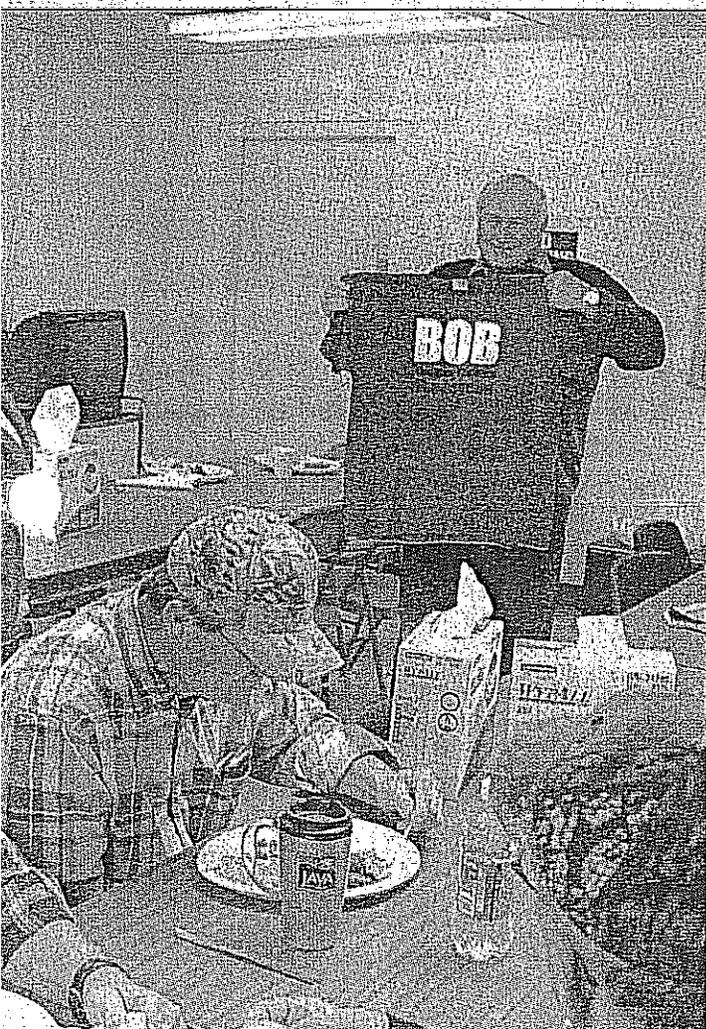
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MANAGING EDITOR: STEVE BEGNOCHE | 843-1122 x326 | sbegnoche@ludingtondailynews.com



JEFF KIESSEL | DAILY NEWS PHOTOS

from road commission employees following his final board meeting

retiring



participation in county road projects.

"We've really improved our local roads," Thurow said.

But he said he worries about the primary roads because funding is so tough to come by.

Thurow, who replaced

Medical marijuana law shrouded in haze

LANSING, Mich. (AP) — Michigan's two-year-old law allowing the use of marijuana for medical purposes is leaving communities, courts, patients and police locked in disputes over what is legal and what isn't.

Many patients who have the state's OK to use marijuana to ease their pain from conditions ranging from cancer to Crohn's disease have been arrested and others have been fired because of different interpretations of the law approved by Michigan voters in late 2008. Courts face a rash of medical marijuana cases, with the law raising so many questions one state appeals court judge described reading it as a "maze."

Local governments are jumping in and passing their own ordinances, mostly trying to limit, ban or regulate a wave of businesses popping up to grow and sell the drug.

Michigan isn't alone in trying to sort out hazy medical marijuana laws. Fourteen other states have similar statutes — prompting raids and debate over local regu-

lations in California, disputes over which doctors can recommend pot in Colorado and fights over proposed regulations in New Jersey.

Many of the clashes are between medical marijuana advocates who say they're acting within the law and police who say they aren't. Adding to the tension is federal law that continues to ban the use and possession of marijuana. Although it won't be a top priority for lawmakers in a state swamped by economic and state government budget problems, Michigan's next Legislature likely will devote some time to clarifying the law.

A class on legal issues is a staple at Med Grow Cannabis College in Southfield, one of the few medical marijuana trade schools in the nation. Nick Tennant, who last year opened up the trade school in suburban Detroit, said the goal of the class is to provide students some clarity about a law that has gray areas.

"A lot of people want definitive answers," Tennant, 25, said.

NEWS IN BRIEF

FROM OUR AREA

Dance class at WSSC

VICTORY TWP. — The West Shore Community College Academy of Lifelong Learning will be offering a "Chance to Dance" from 6:30 to 9:30 p.m. the third Thursday of the month through March in room 425 of the Recreation Center.

ments will be served.

For more information about the dance workshops, call Fox at 843-5569 or e-mail rifox@westshore.edu.

Community Christmas at Emanuel Lutheran

The annual community

The settlement covers three years and would result in a tax refund of about \$66,700 to Gupta.

Luckett declined to answer questions about her recommendation to the board.

"It's not appropriate to discuss pending litigation," Luckett said. "It shouldn't even be out there." Gupta's representative, Robert Fuchs, of Paradigm Tax Group, said Gupta didn't buy property, just development rights. Based on a recent Michigan Court of Appeals decision, the building site becomes part of the common area for the development.

"That is what it says, and the township agrees," Fuchs said. "Other than that, I can't comment." Common areas aren't taxed. Instead, their value is spread out over a condominium's individual units. The township will now spread the \$1.6 million value across Peninsula Bay Resort's 30 units.

Township Supervisor Glen Lile said he finds it odd someone would pay \$1 million-plus for temporary development rights, but he's comfortable with Luckett's recommendation.

Gupta purchased the future development site when the project went bankrupt in 2007.

Medical marijuana collectives in crosshairs

TRAVERSE CITY — City officials plan to ratchet up oversight and regulation of medical marijuana outlets.

The city planning commission was to have discussed two key changes to rules that govern so-called medical marijuana collectives within city limits.

City Planner Russ Soyring will ask planning commissioners to approve a rule that collectives must be separated by at least 500 feet. He also wants to require that potential operators of such collectives provide the owner's name at least 10 business days before the operation is set to open.

The Michigan Medical Marijuana Act, approved in 2008, allows patients to possess up to 2.5 ounces of marijuana and 12 plants. It also allows designated caregivers to grow and distribute marijuana to up to five patients.

Traverse City in August adopted an ordinance that, among other items, permits collectives in most commercial districts of the city. Marijuana can change hands at such locations, but can't be grown there.

The spacing rule is intended to make sure the city doesn't end up with a cluster of collectives. At least three now operate in the city — one on Garfield Avenue near Agave Mexican Grill, another on State Street downtown and one based at Crema on Front Street — and officials expect at least three more in the coming months.

Rotary grants total \$774,102

TRAVERSE CITY — Rotary Charities will distribute more than \$774,000 to 24 area organizations in its latest round of grant awards.

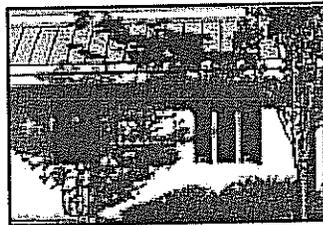
December 19, 2010



Areas discuss medical-marijuana regulations
([http://record-](http://record-eagle.com/local/x96560419/Areas-discuss-medical-marijuana-regulations)



Robert Whims will discuss legal and practical issues of medical marijuana at a meeting of area planning officials next month. Record-Eagle/Keith King



Collective Inc. on State Street does not allow smoking on the premises. Record-Eagle/Jan-Michael Stump

[eagle.com/local/x96560419/Areas-discuss-medical-marijuana-regulations](http://record-eagle.com/local/x96560419/Areas-discuss-medical-marijuana-regulations)

Local communities want to keep up with pot changes

BY BRIAN McGILLIVARY
bmcgillivary@record-eagle.com (<http://record-eagle.com>)

TRAVERSE CITY — Area townships are scrambling to adopt moratoriums for medical marijuana stores in an effort to figure out how to regulate a rapidly growing industry.

Potential operators of medical-marijuana stores, also known as collectives, recently contacted officials in Elmwood and Acme townships about marijuana regulations in those communities.

Traverse City, home to three such marijuana collectives, adopted regulations in August. Townships around Traverse City have none.

Elmwood, in Leelanau County, responded on Dec. 13 by adopting a six-month marijuana-shop moratorium.

"I don't know if we have any concerns right now, but ... the township has a responsibility to draft regulations, and we moved to undertake that process as quickly as possible," said Elmwood Supervisor Jack Kelly.

Garfield Township plans to vote on a moratorium when it meets Jan. 11, Supervisor Chuck Korn said. No one has approached Garfield yet, but Korn said it's only a matter of time and

the township needs to be ready.

"To be fair, once you have someone set up in business and they get rolling, you don't want to tell them they have to go in a new direction," Korn said.

The Acme board, concerned about marijuana collective setbacks from schools, churches and neighborhoods, recently directed its planning commission to draft a moratorium, township Manager Sharon Vreeland said.

East Bay Township officials voted on a six-month moratorium in May, said township Treasurer Tracy Bartlett. The township planning commission and its lawyers have worked on regulations for months, Bartlett said.

"We've talked about several ideas ... but a lot of it is difficult because not a lot of it has been tested beyond local courts," Bartlett said. "We've looked at both zoning ordinances and general law ordinances, and we still haven't decided which way we are going to handle it."

Grand Traverse County Planner John Sych said laws on medical marijuana seem so vague it's difficult to determine what direction townships should take.

Traverse City attorney and Paradise Township trustee Robert Whims will discuss legal and practical issues of medical marijuana at a January meeting of area planning officials.

Whims previously worked as a prosecutor assigned to a gang task force in California.

"Because of the crime attached to narcotics, there has to be great deliberation when you plan for these types of businesses," Whims said.

Density, loitering and hours of operation are among the considerations, he said.

"Some of the nastiest things I've ever prosecuted were dope rip-offs," Whims said. "It's going to be a target for crime, so you are going to want to plan for that ahead of time."

Collectives vary on how they operate, said Karen Anderson, a manager and caregiver at Collective Inc. in Traverse City. Collective Inc. doesn't allow smoking on the premises, but other medical-marijuana outlets do.

For security and safety Collective Inc. locks doors when marijuana is dispensed, Anderson said. The business keeps a minimal amount of marijuana on hand and does not leave it on premises overnight, she said.

"We're trying to be as professional as we can," Anderson said. "We don't want to have a lot of people hanging around smoking."

Some medical-marijuana users light up as soon as they leave the store and get behind the wheel, Whims contends. Townships need to consider proximity to residential areas and how to prohibit loitering, he said.

Marijuana doesn't carry with it the overt dangers of heroin or PCP, Whims said, but he noted it's a narcotic open to abuse.

"My practical experience is narcotics always end badly," Whims said. "Broken families, homicides, a huge percentage of all crimes occur around substance abuse.

"We need to be proactive, not reactive, to prevent some of this before it happens," he said.

Traverse City Record-Eagle 120 W. Front Street Traverse City, MI 49684

COURTS

Medical pot case could hit top court

*Speeding stop led to charge of
driving under influence of drugs*

BY BRIAN MCGILLIVARY
bmcgillivary@record-eagle.com

TRAVERSE CITY — Rodney Koon may have to spend \$30,000 or more to fight a misdemeanor arrest for driving a car the same day he legally used medically prescribed marijuana.

Koon, 49, a laid-off Traverse City roofer, was stopped for speeding Feb. 3 on Garfield Road. A Grand Traverse County deputy found a pipe in his pocket, and Koon readily acknowledged he smoked marijuana that day.

He also showed the deputy a state certificate that allows him to use marijuana for medical purposes.

"I was honest ... that was my mistake," said Koon, who uses marijuana for a variety of ailments, including herniated discs in his back, a pinched nerve in his neck, rheumatoid arthritis of

SEE ARREST PAGE 4A



Record-Eagle/Kelli Kint

Rodney Koon, of Thompsonville, was stopped for speeding early this year. Disagreement on how the Michigan Medical Marijuana Act interacts with a state controlled substance law could drive the case all the way to the state Supreme Court.

ARREST

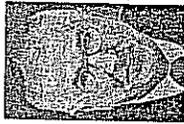
Case involves driving and medical pot use

FROM PAGE 1A

the spine and stomach problems. "I told him I had meditated six hours earlier. After that he was all hot to bust me on a drug charge."

Koon's speeding stop sparked a legal tussle in Traverse City over aspects of the medical marijuana law state voters approved in 2008.

Grand Traverse County authorities charged Koon with driving under the influence of drugs because he tested positive for THC, the primary psychoactive ingredient in marijuana. Prosecutor Alan Schneider based his case against Koon



on a law that finds a person guilty if he tests positive for the smallest detectable amount of a controlled substance.

But two area judges disagreed. They said the Michigan Medical Marijuana Act supersedes a state controlled substance law and ruled Schneider must show that the legal use of medical marijuana impaired Koon's ability to drive a car.

"Evidence of impairment is a necessary requirement," wrote 13th Circuit Court Judge Philip Rodgers in upholding a district court judge's decision that

prevented a prosecutor in Koon's scheduled Sept. 2 trial from inserting favorable jury instructions. The trial was postponed.

"The (prosecutor) has not alleged ... the defendant's actions and mannerisms at that time indicated a visible or substantial impairment with regard to his driving," Rodgers wrote.

No penalties for medical marijuana use?

Rodgers noted the medical marijuana act states that certified users cannot be "subject to arrest, prosecution, or penalty

in any manner ... for the medical use of marijuana." The statute goes on to state that all other laws not consistent with the medical marijuana act do not apply. But the act also prohibits any person from operating a motor vehicle while "under the influence" of marijuana.

Rodney Koon

Schneider disagreed with Rodgers' ruling and plans to appeal, all the way to the state Supreme Court, if necessary.

"To say this caveat (in the marijuana act) supersedes another state law is highly questionable," Schneider said. "The court or the legislature needs to clarify this, and I think we have to force the issue."

Matthew Abel, general

counsel for the Michigan Chapter of the National Organization for the Reform of Marijuana Laws, said Schneider can parse the marijuana act's language all he wants, but said "a caveat is still the law."

The language is clear and Schneider won't change it on appeal, he said.

"He should run for the Legislature if he wants to set policy," Abel said. "In the meantime, he should meet out his justice with temperance and compassion."

Koon said he's survived the housing industry collapse by working as a handyman over the last two years.

He's frustrated by what he believes is Schneider's attempt to stop him from driving or working any time he meditates with marijuana.

"We the people changed this law; 70 percent of the

people voted for it, and now these law enforcers want to interpret it anyway they want," Koon said.

His attorney tells him not to worry about Schneider's appeal, and area medical marijuana groups support him. But he'll need financial help to maintain an appeal he's been told could hit \$30,000, beyond the \$3,000 he's already spent on attorney fees.

"The stress from this af-

fects everything I do," Koon said. "Stress really isn't the word for it. It's totally degrading."

'Just one or two hits'

The incident that prompted the court case wasn't one in which Koon simply was cruising down the road, smoking a joint, getting high. He'd last smoked more than five hours earlier, he said.

"When you medicate you take just one or two hits," he said.

A deputy stopped Koon on his way home from a job about 6 p.m. on Garfield Road in East Bay Township. The deputy said Koon hit 83 miles per hour in a 55 mph zone as he passed a truck, though a speeding ticket was not issued.

The deputy said he smelled alcohol and Koon admitted he had a beer after work. The deputy asked Koon to step out of the car and consent to a search because of the deputy's concern Koon might have a utility knife or other carpentry tool, according to a sheriff's department report.

The deputy said Koon passed most impairment tests, but wrote he could not stand on one leg for 30 seconds, and during a heel-toe walking test had a gap in excess of one-half inch.

Koon said he can't stand on one foot due to his back problems. He was arrested and a blood test came back positive for THC at 10 nanograms per milliliter.

Abel, the pro-marijuana group's lawyer, said there's little, if any research on THC levels and driving. Koon's blood alcohol level

Rodney Koon, of Thompsonville.

was .03, well below the .08 percent level for drunken driving, Schneider said.

Schneider said prosecutors likely will not be able to prove Koon's use of marijuana impaired his driving.

He declined to speculate if the amount of THC in Koon's blood was too high to safely drive.

"I'm not a scientist," he

said.

Schneider said the Legislature needs to come up with a level similar to the .08 percent blood alcohol level established for drunken driving.

Abel agreed — to an extent "The proper way to do that is through research and testing, not on the backs of patients," he said.

Record-Engle/Kelth, King





PLANNING AND ZONING
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MEMORANDUM

TO: Site Plan Review Committee
Maureen Barry
Eric Gustad
Roger Yoder

FROM: Denise Blakeslee *(dj)*

DATE: December 17, 2010

RE: December 22, 2010 - Site Plan Review Committee Meeting

Site Plan Review Committee Members, a meeting has been scheduled for 3:30 pm on Wednesday, December 22, 2010 in the Second Floor Conference Room. This meeting was called as required under Section 1870.E of the Zoning Ordinance for an Amendment to a Planned Unit Development for City of Manistee Housing Commission.

A request has been received from the Woda Group, LLC. They are looking at purchasing the Chalet West Apartment Complex and renovating the buildings and constructing a Community Building. Currently the complex is on three parcels that they would combine into one parcel as a Planned Unit Development.

Review of Article 4 Nonconformities, Section 408 Nonconforming Special Uses reads:

"Uses that previously existed as permitted uses but which under this ordinance are treated as special uses in the district in which they are located, shall not be considered to be nonconforming. Provided, however, that any subsequent change, expansion or adjustment to such use or its associated site shall be undertaken in compliance with this ordinance."

Also since no PUD is currently in place this request results in the creation of a PUD Special Use Permit.

See you Wednesday!

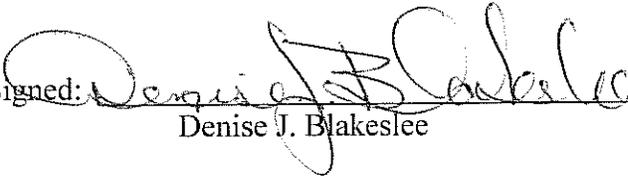
:djb

**NOTICE OF
Meeting of the
Site Plan Review Committee**

The Site Plan Review Committee (Sub-Committee of the Planning Commission) will meet on Wednesday, December 22, 2010 at 3:30 pm in the Second Floor Conference Room, City Hall, 70 Maple Street, Manistee, Michigan.

All meetings are open to the public.

This notice was posted by Denise J. Blakeslee to comply with Sections 4 & 5 of the Michigan Open Meetings Act (P.A. 267 of 1976) at 4:00 pm, Friday, December 17, 2010 on the bulletin board at the south entrance to City Hall.

Signed: 
Denise J. Blakeslee

**Site Plan Review Committee Meeting
December 22, 2010, 3:30 p.m. in Second Floor Conference Room**

Members Present: Maureen Barry, Eric Gustad, Roger Yoder

Others: Jon Rose (Community Development) and Denise Blakeslee (Planning/ Zoning)

Jon Rose explained that the Chalet West Apartment Complex (Multiple Unit Dwelling) is located on three parcels. Under the new Ordinance the complex can only meet requirements of the Ordinance under a Planned Unit Development (PUD).

This meeting was called as required under Section 1870.E of the Zoning Ordinance for an Amendment to a Planned Unit Development for Manistee Place LDHALP and the Woda Group, LLC. The meeting was called to do a preliminary Site Plan Review for the request.

The Woda Group LLC have made an offer to purchase the Chalet West Apartment Complex on Fifth Avenue. They will be making application to City Council for a P.I.L.O.T.

The complex is located on three parcels that as a condition of the PUD will be combined into one..

Currently the property does not meet the parking requirements of 2 spaces per unit. The application will provide 1.5 parking spaces per unit along with parking for the community building.

Melitzer Street encroaches on the property. Legal access for the street will be requested by the City as a condition of the PUD.

The Committee asked about lighting. Staff explained that this was a preliminary Site Plan and that the final Site Plan would include lighting requirements.

Maureen Barry asked about bike racks. Consensus from the members of the Committee was that bike racks should be provided for each parking area or building.

Prior to the application deadline, the applicant will need to submit a Site Plan that meets all the PUD and Special Use Permit Site Plan requirements (checklists). The applicant also need to address the conditions raised by the Site Plan Review Committee.

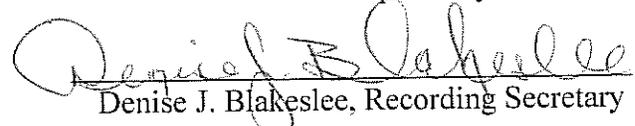
MOTION by Maureen Barry, seconded by Roger Yoder that the Site Plan Review Committee recommend the request be forwarded to the Planning Commission for a PUD amendment for Manistee Place LDHALP and the Woda Group, LLC.

MOTION PASSED UNANIMOUSLY.

A Public Hearing will be scheduled for February 3, 2010.

Meeting Adjourned at 4:08 pm.

Respectfully Submitted


Denise J. Blakeslee, Recording Secretary