



Regular Meeting
January 7, 2019
7:30 PM

City Hall, Commission Chambers, 301 Washington Avenue, Bay City MI 48708

ROLL CALL

*City Commission Minutes (12/17/18).

RECOMMENDATION: Approve.

PUBLIC HEARINGS

- 1 Ordinance amendment to the Code of Ordinances, Chapter 30, Medical Marihuana Facilities, Section 30-503, regarding provisioning center licenses.

SPECIAL ORDERS - UNFINISHED BUSINESS

- 1 *City Manager recommending Ordinance amendment to the Code of Ordinances, Chapter 30, Medical Marihuana Facilities, Section 30-503, increasing the number of licenses allowed.

RECOMMENDATION: Approve

ACCOUNTS AND CLAIMS

*City Manager presenting Accounts and Claims in the amount of \$272,924.16 and Investments and Wire Transfers in the amount of \$1,113,047.33 (12/24/18), Accounts and Claims in the amount of \$333,382.90 and Investments and Wire Transfers in the amount of \$1,214,848.82 (12/31/18) and Accounts and Claims in the amount of \$ and Investments and Wire Transfers in the amount of \$ (1/7/19).

RECOMMENDATION: Approve.

PAYROLL

*City Manager presenting Payroll in the amount of \$915,810.57 (12/27/2018).

RECOMMENDATION: Approve.

REPORTS OF OFFICERS

- 1 *Mayoral appointment of Matthew Lance Bay City, to the Planning Commission, term to expire October 21, 2020.
RECOMMENDATION: Approve.
- 2 *City Manager recommending Lease Agreement with C & K Ratajczak Family Farms, LLC, for property located at 1901 S. Trumbull Street in the amount of \$3,800 per year for five years.
RECOMMENDATION: Approve.
- 3 *City Manager recommending budget amendments in the amount of \$343,447 for the Fiscal Year 2018/2019 budget.

RECOMMENDATION: Approve.

REPORTS OF COMMITTEES

- 1 *Minutes - Finance Policy Committee (12/17/18).
RECOMMENDATION: Approve.

RESOLUTIONS

- 1 *Commission as a Whole resolution appointing Christopher Ibanez, Bay City, to the Historic District Commission, term to expire May 1, 2020.
RECOMMENDATION: Approve.
- 2 *Commission as a Whole Resolution authorizing the City of Bay City to refinance their existing HUD 108 Loan.
RECOMMENDATION: Approve.

Subject:

Reviewed By: City Manager: Dana L. Muscott Deputy City Manager: Tony Reyes Jr.

Prepared By:

PERTINENT FACTS:

LEGAL ISSUES:

TIME SENSITIVITY:

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

CITY GOALS:

RECOMMENDED ACTION:

*City Commission Minutes (12/17/18).

RECOMMENDATION: Approve.

ATTACHMENTS:

Description

Minutes 12.17.18

Upload Date

12/21/2018

Type

Cover Memo



BAY CITY CITY COMMISSION

Regular Meeting Official Proceedings

**Bay City, Michigan
December 17, 2018**

The Commission met at 7:30 PM at City Hall, Commission Chambers, 301 Washington Avenue and was called to order by Mayor Kathleen L. Newsham.

Invocation was given by the City Clerk.

The Commission and others present offered the Pledge of Allegiance.

Commissioners Present: Jesse Dockett, David Terrasi, Andrew Niedzinski, Brentt Brunner, Rachelle Hilliker, John Davidson, Kerice Basmdjian, Ed Clements, and Cordal Morris, 9.

Absent: None.

Commissioner Brunner moved to allow public input on the consent agenda. There was no objection. No one came forward.

On motion, minutes of the December 3, 2018, regular meeting, reported correct by the City Clerk, were approved without reading.

PRESENTATION

Award presentation to Christmas Lighting Contest winners.

PUBLIC HEARINGS

Commissioner Niedzinski moved to allow citizens to address the Dangerous Building at 115 N. Grant

Street. There was no objection. No one came forward.

Commissioner Niedzinski moved to allow citizens to address the Dangerous Building at 510 N. Jefferson Street. There was no objection. No one came forward.

Commissioner Niedzinski moved to allow citizens to address the Dangerous Building at 1005 Litchfield Street. There was no objection.

Brian Houts, 965 Rosewood Blvd, Midland, spoke as the property owner and asked to what extent they need to secure the property to have it removed from the demolition list.

Sue Coggin, Code Enforcement Officer, gave information regarding the timeline of events and steps that have taken place to date.

SPECIAL ORDER

Of Commission as a Whole:

Whereas, the structure located at 115 N. Grant Street, has been found to be a dangerous building pursuant to Chapter 26, Article IX, of the Bay City Code of Ordinances; and

Whereas, a Dangerous Building Notice, dated February 21, 2018, and August 13, 2018, requiring the owner to abate the dangerous building by repair or demolition was served upon Shawn Tippet, 115 N. Grant Street, in the manner prescribed in Section 26-454 of the Bay City Code of Ordinances; and

Whereas, a Dangerous Building hearing was conducted before the Dangerous Building Hearing Officer on October 20, 2018, at 1:00 p.m., who issued a decision and order dated November 2, 2018, that required 1) Within ten (10) days of this order, the owner shall secure required permits to bring structure to code compliance; 2) Within ninety (90) days of this order, the structure shall be brought to code compliance; and 3) Failure to comply

with any aspect of this order shall result in the demolition of the structure. A copy of this order was served on the owner, agent, or lessee in the manner prescribed in Section 26-454 of the Bay City Code of Ordinances; and

Whereas, the time limit for performance has expired, and the owner has failed, refused, or otherwise neglected to repair, rehabilitate, or demolish the dangerous building; and **Whereas**, a hearing was held before the Bay City City Commission, at which time the owner, agent, or lessee was given the opportunity to show cause why the order of the Dangerous Building Hearing Officer should not be enforced;

Now Therefore Be It Resolved that the Bay City City Commission hereby approves the order of the Dangerous Building Hearing Officer. The owner, agent, or lessee of the structure shall comply with the order of the Dangerous Building Hearing Officer within thirty (30) days of the date of this hearing. Should the owner, agent, or lessee fail to obtain all necessary permits and complete repairs or to complete the demolition within sixty (60) days after the date of this hearing, the City Attorney and the Code Enforcement Department are hereby authorized to seek an order from the Bay County Circuit Court to demolish said building in accordance with the provisions of Section 26-455 of the Bay City Code of Ordinances, assess the cost thereof against the land as a special assessment, and/or charge the cost thereof as a personal obligation of the property owner, and direct the City Attorney to collect the same on behalf of the City by use of all legal remedies, pursuant to Chapter 26, Article XI, of the Bay City Code of Ordinances.

Be It Further Resolved that the owner or party in interest aggrieved by this final decision/order of the City Commission is notified that he/she/it

may appeal the decision/order to the circuit court by filing a petition for superintending control within twenty (20) days from the date of the decision/order.

Commissioner Davidson moved adoption of resolution.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Davidson, Basmadjian, Clements, Morris, 9.

No, None.

SPECIAL ORDER

Of Commission as a Whole:

Whereas, the structure located at 510 N. Jefferson Street, has been found to be a dangerous building pursuant to Chapter 26, Article IX, of the Bay City Code of Ordinances; and

Whereas, a Dangerous Building Notice, dated February 21, 2018, August 13, 2018, and September 14, 2018, requiring the owner to abate the dangerous building by repair or demolition was served upon John and Jennifer Boice, 510 N. Jefferson Street, in the manner prescribed in Section 26-454 of the Bay City Code of Ordinances; and

Whereas, a Dangerous Building hearing was conducted before the Dangerous Building Hearing Officer on October 20, 2018, at 1:00 p.m., who issued a decision and order dated November 2, 2018, that required 1) Within ten (10) days of this order, the owner shall secure required permits to bring structure to code compliance; 2) Within ninety (90) days of this order, the structure shall be brought to code compliance; and 3) Failure to comply with any aspect of this order shall result in the demolition of the structure. A copy of this order was served on the owner, agent, or lessee in the manner prescribed in Section 26-454 of the Bay City Code of Ordinances; and

Whereas, the time limit for

performance has expired, and the owner has failed, refused, or otherwise neglected to repair, rehabilitate, or demolish the dangerous building; and

Whereas, a hearing was held before the Bay City City Commission, at which time the owner, agent, or lessee was given the opportunity to show cause why the order of the Dangerous Building Hearing Officer should not be enforced;

Now Therefore Be It Resolved that the Bay City City Commission hereby approves the order of the Dangerous Building Hearing Officer. The owner, agent, or lessee of the structure shall comply with the order of the Dangerous Building Hearing Officer within thirty (30) days of the date of this hearing. Should the owner, agent, or lessee fail to obtain all necessary permits and complete repairs or to complete the demolition within sixty (60) days after the date of this hearing, the City Attorney and the Code Enforcement Department are hereby authorized to seek an order from the Bay County Circuit Court to demolish said building in accordance with the provisions of Section 26-455 of the Bay City Code of Ordinances, assess the cost thereof against the land as a special assessment, and/or charge the cost thereof as a personal obligation of the property owner, and direct the City Attorney to collect the same on behalf of the City by use of all legal remedies, pursuant to Chapter 26, Article XI, of the Bay City Code of Ordinances.

Be It Further Resolved that the owner or party in interest aggrieved by this final decision/order of the City Commission is notified that he/she/it may appeal the decision/order to the circuit court by filing a petition for superintending control within twenty (20) days from the date of the decision/order.

Commissioner Niedzinski moved adoption of resolution.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Davidson, Basmadjian, Clements, Morris, 9.

No, None.

SPECIAL ORDER

Of Commission as a Whole:

Whereas, the structure located at 1005 Litchfield Street, has been found to be a dangerous building pursuant to Chapter 26, Article IX, of the Bay City Code of Ordinances; and

Whereas, a Dangerous Building Notice, dated December 19, 2016, February 18, 2018, and March 21, 2018, requiring the owner to abate the dangerous building by repair or demolition was served upon Brian W. Houts, 965 Rosewood Blvd., Midland, MI 48640-8233, in the manner prescribed in Section 26-454 of the Bay City Code of Ordinances; and

Whereas, a Dangerous Building hearing was conducted before the Dangerous Building Hearing Officer on October 20, 2018 at 1:00 p.m., who issued a decision and order dated November 2, 2018, that required 1) Within ten (10) days of this order, the owner shall secure required permits to bring structure to code compliance; 2) Within ninety (90) days of this order, the structure shall be brought to code compliance; and 3) Failure to comply with any aspect of this order shall result in the demolition of the structure. A copy of this order was served on the owner, agent, or lessee in the manner prescribed in Section 26-454 of the Bay City Code of Ordinances; and

Whereas, the time limit for performance has expired, and the owner has failed, refused, or otherwise neglected to repair, rehabilitate, or demolish the dangerous building; and

Whereas, a hearing was held before the Bay City City Commission,

at which time the owner, agent, or lessee was given the opportunity to show cause why the order of the Dangerous Building Hearing Officer should not be enforced;

Now Therefore Be It Resolved that the Bay City City Commission hereby approves the order of the Dangerous Building Hearing Officer. The owner, agent, or lessee of the structure shall comply with the order of the Dangerous Building Hearing Officer within thirty (30) days of the date of this hearing. Should the owner, agent, or lessee fail to obtain all necessary permits and complete repairs or to complete the demolition within sixty (60) days after the date of this hearing, the City Attorney and the Code Enforcement Department are hereby authorized to seek an order from the Bay County Circuit Court to demolish said building in accordance with the provisions of Section 26-455 of the Bay City Code of Ordinances, assess the cost thereof against the land as a special assessment, and/or charge the cost thereof as a personal obligation of the property owner, and direct the City Attorney to collect the same on behalf of the City by use of all legal remedies, pursuant to Chapter 26, Article XI, of the Bay City Code of Ordinances.

Be It Further Resolved that the owner or party in interest aggrieved by this final decision/order of the City Commission is notified that he/she/it may appeal the decision/order to the circuit court by filing a petition for superintending control within twenty (20) days from the date of the decision/order.

SUSPEND THE RULES

Commissioner Davidson moved to suspend the rules to discuss the item with the homeowner. There was no objection.

BACK TO THE REGULAR ORDER OF BUSINESS

Commissioner Davidson moved adoption of resolution.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Davidson, Basmadjian, Clements, Morris, 9.

No, None.

ACCOUNTS, CLAIMS, INVESTMENTS & WIRE TRANSFERS

Of City Manager:

Accounts and Claims in the amount of \$245,816.30 and Investments and Wire Transfers in the amount of \$955,958.77 (12/10/18) and Accounts and Claims in the amount of \$1,140,445.29 and Investments and Wire Transfers in the amount of \$393,278.58 (12/17/18), have been examined, found correct, and are hereby referred to you for your approval.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.

No, Commissioner Davidson, 1.

PAYROLL

Of City Manager:

Reporting payroll in the amount of \$920,000.53 (12/13/18) and recommending payment of same.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.

No, Commissioner Davidson, 1.

REPORTS OF OFFICERS

Of the Mayor:

It is recommended that the appointment of Greg Kimbrue, Bay City, to the Midland Street Management Board, term to expire June 30, 2022, be approved.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.

No, Commissioner Davidson, 1.

Of City Manager:

It is recommended that the contract with Payment Services Network, Madison, WI, for credit/debit card processing for City Departments at no cost to the city be approved.

It is further recommended that the Mayor and Clerk be authorized and directed to execute on behalf of the City.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.

No, Commissioner Davidson, 1.

Of City Manager:

It is recommended that the purchase of a 2019 John Deere Backhoe, from AIS Construction Equipment, Bridgeport, MI, through the State of Michigan Extended Purchasing Program, in the amount of \$128,821, for the Department of Public Works - Street Division, be approved.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.

No, Commissioner Davidson, 1.

Of City Manager:

It is recommended that the Lease Agreement with Axon Enterprises Inc.,

Scottsdale, AZ, for Taser units for the Public Safety Department in the amount of \$9,600 for the first year and \$8,000 per year for years two through five, be approved.

It is further recommended that the Mayor and Clerk be authorized and directed to execute on behalf of the City.

Commissioner Brunner moved to allow public input. There was no objection. No one came forward.

Commissioner Clements moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Davidson, Basmadjian, Clements, Morris, 9.

No, None.

Of City Manager:

It is recommended that the Collective Bargaining Agreement for International Association of Fire Fighters, Local 116, effective December 18, 2018, through December 31, 2021, be approved.

It is further recommended that the Mayor and Clerk be authorized and directed to execute on behalf of the City.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.

No, Commissioner Davidson, 1.

Of City Manager:

It is recommended that a Provisional Medical Marijuana Facilities License to DCH Licensing, LLC, to operate two Grower facilities (Class C) at 405 Morton Street, contingent upon final inspection, be approved.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:
 Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.
 No, Commissioner Davidson, 1.

Of City Manager:

It is recommended that a Provisional Medical Marihuana Facilities License to Uptown Meds, LLC, to operate a Provisioning Center at 816 Washington Avenue, contingent upon final inspection, be approved.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.
 No, Commissioner Davidson, 1.

Of City Manager:

It is recommended that the following Ordinance be received for first reading and referred to next meeting for second reading and possible adoption.

Of Commission as a Whole:

Ordinance No. 2019-1

Be It Ordained by the City of Bay City: that the Code of Ordinances of the City of Bay City, Chapter 30, Medical Marihuana Facilities, Section 30-503, be amended to read as follows:

Sec. 30-503. Number of permitted facilities.

The maximum number of each type of medical marihuana commercial entity permitted in the City is as follows:

<u>Type of Facility</u>	<u>Designation</u>	<u>Number</u>
Grower	A	25
Grower	B	25
Grower	C	25
Processor		25
Secure Transporter		25
Provisioning Center		50
Safety Compliance Facility		25

Received for first reading, as amended, and referred to the next meeting for second reading and possible adoption.

REPORTS OF COMMITTEES

Of Finance/Policy Committee:
 Presenting minutes of regular meeting December 3, 2018.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Terrasi, Niedzinski, Brunner, Hilliker, Basmadjian, Clements, Morris, 8.
 No, Commissioner Davidson, 1.

Of Charter Commission:
 Presenting minutes of regular meeting November 13, 2018.

Received.

RESOLUTIONS

Of Commission as a Whole:

Whereas, as part of the proposed Collective Bargaining Agreement between the City and IAFF Local #116, IAFF has proposed to allow fire members to roll up to \$5,000 of bonus pay into the computation of the pension maximums; consistent with the provision for police members; and

Whereas, under PA314 a supplemental actuarial analysis must be conducted by the Retirement systems actuary when there is a proposed benefit change; and

Whereas, Rodwan Consulting Company has been asked to compute the fiscal impact on the City's Police and Fire Retirement System based on a proposal made by IAFF Local #116, which is part of the new collective bargaining agreement under consideration;

Now Therefore Be It Resolved, that the Bay City City Commission approve the benefit change to IAFF Local #116, to allow fire members to roll up to \$5,000 of bonus pay into the

computation of the pension maximums.
Commissioner Brunner moved
adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett,
Terrasi, Niedzinski, Brunner, Hilliker,
Basmadjian, Clements, Morris, 8.

No, Commissioner Davidson, 1.

The Commission adjourned at 8:17
PM.

KATHLEEN L. NEWSHAM, MAYOR

TEMA J. LUCERO, CITY CLERK

Subject: City Code of Ordinances Chapter 30 Medical Marihuana Facilities amendment
Reviewed By: City Manager: Dana L. Muscott; Deputy City Manager: Tony Reyes; Community Development Director: Debbie Kiesel
Prepared By: Planning & Zoning Manager: Terry Moulthane

PERTINENT FACTS:

The purpose of this request is for an amendment to the City Code of Ordinances, Chapter 30, Article XV, Medical Marihuana Facilities, specifically Section 30-503 Number of Permitted Facilities. The amendment will change the maximum number of medical marihuana provisioning centers from 25 to 50 licenses, per City Commission direction.

LEGAL ISSUES:

This Ordinance authorizes medical marihuana facilities within the City of Bay City consistent with the provisions under the Michigan Medical Marihuana Act, (MCL 333.26421 et seq.), the Medical Marihuana Facilities Licensing Act (MCL 333.27101 et seq.) and the Marihuana Tracking Act (MCL 333.27901 et seq.).

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

An annual nonrefundable fee to defray the administrative and enforcement costs associated with medical marihuana facilities located in the City of \$5,000 per licensed facility is established in the Ordinance. In addition, the city will receive a portion of funds from the taxes on marijuana and distribution of revenue to different jurisdictions.

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending Ordinance amendment to the Code of Ordinances, Chapter 30, Medical Marihuana Facilities, Section 30-503, increasing the number of licenses allowed.

RECOMMENDATION: Approve

ATTACHMENTS:

Description	Upload Date	Type
Chapter 30 Medical Marihuana Facilities Ordinance	12/20/2018	Cover Memo

ORDINANCE NO. 2017-19 (as amended 1/7/19)

AN ORDINANCE TO AMEND CHAPTER 30, OF BAY CITY CODE OF ORDINANCES THE CITY OF BAY CITY ORDAINS:

Section 1. The Code of Ordinances of the City of Bay City, Chapter 30, is amended by the addition of Article XV, Medical Marihuana, Facilities to read as follows:

Division I. General Provisions

Sec. 30-501. Purpose and Intent.

(a) The purpose of this Article is to implement the provisions of the Michigan Medical Marihuana Facilities Licensing Act, so as to protect the public health, safety, and welfare of the residents and patients of the City by setting forth the manner in which medical marihuana facilities can be operated in the City. Further, the purpose of this Article is to:

(1) Provide for a means of cultivation, processing, and distribution of marihuana to patients who qualify to obtain, possess, and use marihuana for medical purposes under the Michigan Medical Marihuana Act, (MCL 333.26421 et seq.), the Medical Marihuana Facilities Licensing Act (MCL 333.27101 et seq.) and the Marihuana Tracking Act (MCL 333.27901 et seq.);

(2) Protect public health and safety through reasonable limitations on marihuana commercial entity operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the facility and its personnel, and other health and safety concerns;

(3) Protect residential neighborhoods by limiting the location and the concentration of types of marihuana commercial entities to specific areas of the City;

(4) Impose fees to defray and recover the cost to the City of the administrative and enforcement costs associated with medical marihuana facilities;

(5) Coordinate with laws and regulations that may be enacted by the State addressing medical marihuana; and

(6) To restrict the issuance of medical marihuana facility licenses only to individuals and entities that have demonstrated an intent and ability to comply with this Article without monitoring by City officials.

(b) This Article authorizes the establishment of medical marihuana facilities within

the City of Bay City consistent with the provisions of the Michigan Medical Marihuana Facilities Act; and subject to the following:

(1) Medical marihuana cultivation and processing can have an impact on health, safety, and community resources, and this Article is intended to permit medical marihuana cultivation and processing where it will have a minimal impact;

(2) Use, distribution, cultivation, production, possession, and transportation of medical marihuana remains illegal under Federal law, and marihuana remains classified as a "controlled substance" by federal law;

(3) The regulations for medical marihuana commercial entities are not adequate at the state level to address the impacts on the City of the commercialization of medical marihuana, making it appropriate for local regulation of the impact of medical marihuana commercial entities;

(4) Nothing in this Article is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law.

(5) This Article is to be construed to protect the public over medical marihuana facility interests. Operation of a medical marihuana facility is a revocable privilege and not a right in the City. There is no property right for an individual or facility to engage or obtain a license to engage in medical marihuana as a commercial enterprise in the City; and

(6) Because medical marihuana is a heavily regulated industry in the City, all licensees are assumed to be fully aware of the law; the City shall not therefore be required to issue warnings before issuing citations for violations of this Article.

(c) As of the effective date of this ordinance, marihuana is classified as a Schedule 1 controlled substance under Federal law which makes it unlawful to manufacture, distribute, cultivate, produce, possess dispense or transport marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under Federal law.

(d) Relationship to State Law.

(1) Except as otherwise provided by the MMFLA and this Article, a licensee and its employees and agents who are operating with the scope of a valid State-issued operating license are not subject to criminal or civil prosecution under City ordinances regulating marihuana.

(2) Except as otherwise provided by the MMFLA and this Article, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee is violating or violated the MMFLA or a provision of this Article, is not subject to criminal or civil prosecution under

City ordinances regulating marihuana.

(3) Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, and all applicable rules promulgated by the State of Michigan regarding medical marihuana. Strict compliance with any applicable State law or regulation shall be deemed a requirement for the issuance or renewal of any license issued under this Article, and noncompliance with any applicable State law or regulation shall be grounds for revocation or nonrenewal of any license issued under the terms of this Article.

(4) A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions for purchasing marihuana from a provisioning center if the quantity purchased is within the limits established under the Michigan medical marihuana act. A registered primary caregiver is not subject to criminal prosecution or sanctions for any transfer of 2.5 ounces or less of marihuana to a safety compliance facility for testing.

(5) In the event of any conflict, the terms of this Article are preempted and the controlling authority shall be the statutory regulations set forth by the MMFLA or the rules adopted by the Board to implement, administer or enforce the MMFLA.

(e) City liability and indemnification.

(1) By accepting a license issued pursuant to this Article, the licensee waives and releases the City, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(2) By accepting a license issued pursuant to this Article, all licensees, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating facility, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a medical marihuana facility or use of a product cultivated, processed, distributed or sold that is subject to the license, or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §1964(c) .

(3) By accepting a license issued pursuant to the Article, a licensee agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims, penalties, or demands arising on account any alleged violation of the federal Controlled Substances Act, 21 U.S.C. §801 et seq. or Article 7 of the Michigan Public Health Code, MCL 333.7101 et seq.

Sec. 30-502. 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:

Applicant means a person who applies for a state operating license. With respect to disclosures in an application, or for purposes of ineligibility for a license, the term applicant includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

Board means the medical marihuana licensing board created pursuant to Part 3 of the MMFLA.

Cultivate or *cultivation* means all phases of marihuana growth from seed to harvest; and the preparation, packaging, and labeling of harvested usable marihuana.

Department means the Michigan department of licensing and regulatory affairs, or its successor agency.

Grower means a licensee that is a commercial entity that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

Licensee means a person holding a state operating license.

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

Marihuana commercial entity means any and all of the following marihuana facilities:

- (1) A grower,
- (2) A processor,
- (3) A secure transporter,
- (4) A provisioning center,
- (5) A safety compliance facility.

Marihuana facility means a location at which a licensee is licensed to operate under the MMFLA and this Article.

Marihuana plant means any plant of the species *Cannabis sativa* L.

Marihuana-infused product means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 et seq.

Michigan medical marihuana act or *MMMA* means 2008 IL 1, MCL 333.26421 et seq., as may be amended.

Michigan medical marihuana facilities licensing act or *MMFLA* means Public Act 281 of 2016, MCL 333.27101 et seq., as may be amended.

Michigan marihuana tracking act means Public Act 282 of 2016, MCL 333.27901 et seq., as may be amended.

Paraphernalia means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

Plant means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

Processor means a licensee that is a commercial entity that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Provisioning center means a licensee that is a commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the Department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this Article.

Registered primary caregiver means a primary caregiver who has been issued a current registry identification card under the MMMA.

Registered qualifying patient means a qualifying patient who has been issued a current registry identification card under the MMMA or a visiting qualifying patient as that term is defined in the MMMA.

Registry identification card means that term as defined in the MMMA.

Rules mean rules promulgated by the Department in consultation with the Board to implement this act.

Safety compliance facility means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

Secure transporter means a licensee that is a commercial entity that stores marihuana and transports marihuana between marihuana facilities for a fee.

State operating license or, unless the context requires a different meaning, *license* means a license that is issued under the MMFLA and this Article that allows the licensee to operate as 1 of the following marihuana commercial entities, as specified in the license:

- (1) A grower,
- (2) A processor,
- (3) A secure transporter,
- (4) A provisioning center,
- (5) A safety compliance facility.

Statewide monitoring system or, unless the context requires a different meaning, *system* means an internet-based, statewide database established, implemented, and maintained by the Department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (1) Verifying registry identification cards.
- (2) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (3) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, MCL 333.26424.

True party of interest means:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and heir spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.
- (3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.
- (4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.
- (5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.
- (7) For a trust: the names of the beneficiaries.

However, *true party of interest* does not mean:

- (1) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.
- (2) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based on a written incentive or bonus program that is not out of the ordinary for the services rendered.

Usable marihuana means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

Division II. Licensing of Medical Marihuana Facilities

Sec. 30-503. Number of permitted facilities.

The maximum number of each type of medical marihuana commercial entity

permitted in the City is as follows:

<u>Type of Facility</u>	<u>Designation</u>	<u>Number</u>
Grower	A	25
Grower	B	25
Grower	C	25
Processor		25
Secure Transporter		25
Provisioning Center		50
Safety Compliance Facility		25

Sec. 30-504. Location eligibility.

- (a) No medical marihuana facility shall be eligible to be issued a city operating license unless the applicant complies with Division III of this Article.
- (b) A licensee shall not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk.

Sec. 30-505. License and annual fee required.

- (a) No person shall establish or operate a medical marihuana commercial entity in the City without first having obtained from the City and the State a license for each such facility to be operated. License certificates shall be kept current and publically displayed within the facility. Failure to maintain or display a current license certificate shall be a violation of this Article.
- (b) The annual nonrefundable fee to defray the administrative and enforcement costs associated with medical marihuana facilities located in the City is \$5,000 per licensed facility.
- (c) The annual nonrefundable fee required under this section shall be due and payable with the application for a license and upon the application for renewal of any such license under this Article.
- (d) The license fee requirement set forth in this Article shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or City ordinance, including, by way of example any applicable zoning or building permits.
- (e) The issuance of any license pursuant to this Article does not create

an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.

(f) Licenses shall be allowed to be stacked for multiple uses per premise. Two or more commercial marihuana entities may be located on one premise. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a medical marihuana facility and any adjacent business. A separate license shall be required for each entity.

Sec. 30-506. General license application requirements.

(a) A person seeking a license pursuant to the Medical Marihuana Facilities Licensing Act and the provisions of this Article shall submit an application to the City on forms provided by the City. At the time of application, each applicant shall pay a nonrefundable application fee to defray the costs incurred by the City for background investigations and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present a suitable form of identification.

(b) The applicant shall also provide the following information, under the penalty of perjury, on the City-issued form. Such information is required for the applicant, the proposed manager of the marihuana commercial entity, and all persons who are true parties of interest in the marihuana commercial entity that is the subject of the application:

(1) The name, address, date of birth, business address, business telephone number, driver's license, and, if applicable, federal tax identification number;

(2) If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the State of Michigan, as applicable;

(3) The identity of every person having any ownership interest in the applicant with respect to which the license is sought.

(4) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a marihuana facility;

(5) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises;

(6) Three (3) stamped or sealed 24 inch by 36 inch drawings of the proposed licensed premises showing, without limitation, building layout, all entryways and exits to the proposed licensed premises, loading zones and all areas in

which medical marihuana will be stored, grown, manufactured or dispensed;

(7) A comprehensive facility operation plan for the marihuana commercial entity which shall contain, at a minimum, the following:

- a. A security plan indicating how the applicant will comply with the requirements of this Article and any other applicable law, rule, or regulation. The security plan shall include details of security arrangements and will be protected from disclosure as provided under the Michigan Freedom of Information Act, MCL 15.231 et seq. If the City finds that such documents are subject to disclosure, it will attempt to provide at least 2 business days' notice to the applicant prior to such disclosure.
- b. For grower and processing facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City;
- c. A lighting plan indicating the lighting outside of the medical marihuana facility for security purposes and compliance with applicable City requirements;
- d. A plan for disposal of any medical marihuana or medical marihuana-infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
- e. A plan for ventilation system for the medical marihuana facility. The building shall, at a minimum, be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through any exhaust vent will pass through an activated carbon filter. Negative air pressure shall be maintained inside the building so that odors shall not escape through traffic in and out of exit access doorways. There shall also be an established maintenance program to inspect the carbon filters regularly and to replace the filters per the manufacturer's recommendations or every 365 days, whichever is less.

For medical marihuana grow facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how the system operates and prevents all offensive odors from escaping the premises. For medical marihuana businesses that produce medical marihuana-infused products, the plan shall include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

An alternative odor control system may be permitted if the permit applicant submits and the City accepts a report from a mechanical

engineered licensed in the state of Michigan that demonstrates the alternate system will control odor as well or better than the activated carbon filtration system required.

f. A description of all toxic, flammable, or other materials regulated by a federal, state, or local authority that would have jurisdiction over the business if it was not a marihuana business, that will be used or kept at the medical marihuana business, the location of such materials, and how such materials will be stored.

g. For grower and processing facilities, an applicant must submit electrical plans for load review to Bay City Electric Light & Power for a primary/secondary load study. Applicant must prepay all costs associated with overbuilds that are necessary to meet the applicants required load before construction begins. Associated costs may include:

1. Overbuild of primary/secondary utility lines and their supporting structures.
2. KVA cost (Transformer(s))
3. All labor and equipment cost.

Bay City Electric Light & Power reserve the right to deny electric service to any applicant based on failure to meet load acceptance review or load requirements that are not conducive to the location.

(8) Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the City detailed construction drawings showing at minimum, a full site plan, interior and exterior lighting requirements, the full mechanical heating and ventilation plan, a detailed security plan, before and after floor plans and specifications, non-rated and rated separation details and locations, accessible route from the public way to the accessible entrance, accessible route to the primary function and within the facility and accessible bathrooms. The licensee shall make application for a plan review and a building permit for the modifications to the premises, on forms provided by the City. Additional specifications may be required.

A building or structure hereafter constructed or renovated for use as a medical marihuana facility shall not be used or occupied in whole or in part until a certificate of use and occupancy has been issued by the enforcing agency.

(9) Proof of Insurance. A licensee shall at all times maintain full force and effect for duration of the license, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000

per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan. A licensee shall provide evidence to the City Clerk of the ability to obtain a certificate of insurance for a valid and effective policy which discloses the limits of each policy, the name of the proposed insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. When issued, the policy shall name the City of Bay City and its officials and employees as additional insureds to the limits required by this section. A licensee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the City Clerk within 5 business days in the event of expiration or cancellation of coverage.

(10) Whether an applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.

(11) Whether an applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.

(12) Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.

(13) A description of the type of marijuana facility; and the anticipated or actual number of employees.

(14) One digital copy of the complete application submittal in an Adobe PDF format.

(15) An acknowledgment and consent that the City may conduct a background investigation, including a criminal history check for each true party of interest and each proposed employee, and that the City will be entitled to full and complete disclosure of all financial records of the marijuana commercial

entity, including records of deposit, withdrawals, balances and loans; and

(16) Any additional information that the Community Development Department or Public Safety Department reasonably determines to be necessary in connection with the investigation and review of the application.

(c) Consistent with the MMFLA and Freedom of Information Act, MCL 15.231 *et seq.* the information provided to the City Clerk pursuant to this section relative to licensure is exempt from disclosure.

(d) All marihuana commercial entities shall obtain all other required permits or licenses related to the operation of the marihuana commercial entity, including, without limitation, any development approvals or building permits required by any applicable code or ordinance.

(e) If a deficiency is identified in an application, the applicant shall have five (5) business days to correct the deficiency after notification.

(f) Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the City Clerk shall accept the application and assign it an application number by facility type.

(g) Upon receipt of a completed application, the City Clerk shall circulate the application to the Community Development Department, Public Safety Department, Assessing Department, Department of Public Works, and the Electric Department to determine whether the application is in full compliance with all applicable laws, rules and regulations.

Sec. 30-507. Denial of application.

(a) The City Clerk, following recommendations from following departments, shall reject any application that does not meet the requirements of the Medical Marihuana Facilities Licensing Act or this Article. The City Clerk shall reject any application that contains any false, misleading or incomplete information.

(b) An applicant is ineligible to receive a license under this Article if any of the following circumstances exist regarding a true party of interest of the applicant:

(1) Conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or conviction of a controlled substance-related felony within the past 10 years.

(2) Within the past 5 years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.

(3) The applicant has knowingly submitted an application for a license that

contains false, misleading or fraudulent information, or who has intentionally omitted pertinent information on the application for a license.

(4) Is a member of the Board.

(5) The applicant fails to provide and maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

(6) Holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(7) The applicant, if an individual, has been a resident of this state for less than a continuous 2-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.

(8) The applicant fails to meet other criteria established by State-issued rule.

Sec. 30-508. Issuance of provisional approval certificate.

(a) Complete applications for a marihuana facility license determined to be in full compliance with the requirements of this Article shall be issued a provisional medical marihuana facility approval certificate in accordance with the procedures specified in this Section.

(b) The City Clerk, upon approval by the city commission, shall issue a provisional medical marihuana facility approval certificate if the inspection, background checks, and all other information available to the City verify that the applicant as a grower, processor, provisioning center, safety compliance facility, or secure transporter has submitted a full and complete application, has the ability to make improvements to the business location consistent with the application, complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, all in compliance with this Code and any other applicable law, rule, or regulation.

(c) A provisional medical marihuana facility approval certificate means only that the applicant has submitted a valid application for a marihuana facility license, and is eligible to receive the appropriate marihuana facility license from the Board. The applicant shall not locate or operate a marihuana facility in the City without obtaining a license approved by the Board and issued by the State. A provisional certificate issued by the City on or before December 31, 2018, will expire and be void after 1 year, or will expire and be void after 6 months for a provisional certificate issued on or after January 1, 2019, if such State approval is not diligently pursued to completion by the applicant or on the date that State approval is denied to the applicant, whichever first occurs.

(d) The conditions of an approval of a medical marihuana business license shall

include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

Sec. 30-509. Issuance of city marihuana facility operating license.

(a) An applicant holding an unexpired provisional certificate issued pursuant to this Article and for which the Board has granted the appropriate marihuana facility state operating license shall provide proof of same to the City Clerk.

(b) Inspection. An inspection of the proposed medical marihuana facility by the City shall be required prior to issuance of the City operating license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any medical marihuana, and prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation.

(c) After verification that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation, the City Clerk shall issue a City operating license whose term shall run concurrent with the State operating license for the facility.

(d) Maintaining a valid marihuana facility license issued by the state is a condition for the issuance and maintenance of the City operating license issued under this Article and the continued operation of any marihuana facility.

Sec. 30-510. License forfeiture.

In the event that a medical marihuana facility does not commence operations within one year of issuance of a City operating license, the license shall be deemed forfeited; the business may not commence operations and the license is not eligible for renewal.

Sec. 30-511. License renewal.

(a) A City marihuana facility operating license shall run concurrently with the State operating marijuana license issued for the facility, unless revoked as provided by law.

(b) A valid marihuana facility license may be renewed on an annual basis by a renewal application upon a form provided by the City and payment of the annual license fee. An application to renew a marihuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

(c) Prior to the issuance of a renewed marihuana facility license by the City, the

premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Article.

Sec. 30-512. Transfer, sale or purchase of license.

(a) A medical marihuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a medical marihuana business license are only those persons disclosed in the application or subsequently disclosed to the City in accordance with this article.

(b) Each operating license is exclusive to the licensee and a licensee or any other person must submit an application for licensure with the City Clerk before a license is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest in a license without prior application with the City Clerk is grounds for suspension or revocation of the license.

Sec. 30-513. License as revocable privilege.

An operating license granted by this Article is a revocable privilege granted by the City and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the City's approval before a license is transferred, sold, or purchased. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license. The attempted transfer, sale, or other conveyance of an interest in a license without prior Board approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the City.

Sec. 30-514. Nonrenewal, suspension or revocation of license.

(a) The City Manager may, after notice and hearing, suspend, revoke or refuse to renew a license for any of the following reasons:

(1) The applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Article or with any applicable state or local law or regulation;

(2) The applicant or licensee, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or

(3) The marihuana commercial entity has been operated in a manner that adversely affects the public health, safety or welfare.

(b) Evidence to support a finding under this section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the marihuana commercial entity or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marihuana commercial entity, or an ongoing nuisance condition emanating from or caused by the marihuana commercial entity. Criminal conduct shall be limited to the violation of a state law or regulation or city ordinance.

(c) The zoning board of appeals shall hear and decide appeals arising from the suspension, revocation or refusal to renew a license. The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse a decision of the city manager. The standard of review on appeal shall be a finding that the decision of the city manager was arbitrary and capricious or that the decision was unsupported by substantial evidence, two-wit: relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Division III. Specific marihuana facility requirements

Sec. 30-515. Marihuana facilities.

(a) The following types of Marihuana Facilities, per the Medical Marihuana Facilities Licensing Act (Act 281 of 2016), as permitted uses in the following zoning districts:

Grower: For the Class A, Class B, and Class C designations: permitted use in the M-1, Light Industrial District and M-2, General Industrial District.

Processor: Permitted use in the M-1, Light Industrial District and M-2, General Industrial District.

Secure Transporter: Permitted use in the C-1, Neighborhood Business District, C-2-A, General Business District, C-2-B, Highway Business District, C-3, Central Business District, M-1, Light Industrial District and M-2, General Industrial District.

Safety Compliance Facility: Permitted use in the C-1, Neighborhood Business District, C-2-A, General Business District, C-2-B, Highway Business District, C-3, Central Business District, M-1, Light Industrial District and M-2, General Industrial District.

Provisioning Center: Permitted use in the C-1, Neighborhood Business District, C-2-A, General Business District, C-2-B, Highway Business District, C-3, Central Business District, M-1, Light Industrial District and M-2, General Industrial District.

(b) Separation requirements, property line to property line:

- (1) At least one hundred (100) feet from a church or active religious institution.
- (2) At least five hundred (500) feet from a Pre-K to 12 school.
- (3) At least fifty (50) feet from a court facility or public safety office, including law enforcement centers and fire stations.
- (4) At least one hundred (100) feet from public parks as identified in the City's Parks and Recreation Plan. For the purposes of this Article, the Bay City Railtrail/Riverwalk non-motorized pathway is exempt from this requirement.

Sec. 30-516. Grower license.

Applicable standards for grower facilities:

- (1) More than one Medical Marihuana Grower facility license may be permitted per parcel or lot.
- (2) All Grower facilities and operations must be within an enclosed building.
- (3) A grower may hold more than one class of grower license.
- (4) An applicant and each investor in a grower license cannot have an interest in a secure transporter or safety compliance facility.
- (6) A grower shall comply with all of the following:
 - a. Until December 31, 2021, have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.
 - b. While holding a license as a grower, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.
 - c. Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.
 - d. Sell or transfer marihuana seeds or marihuana plants only to another grower by means of a secure transporter.
 - e. Sell or transfer marihuana, other than seeds, only to a processor or

provisioning center by means of a secure transporter.

f. No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marihuana cultivated, produced, or distributed by a medical marihuana business.

g. A medical marihuana business shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marihuana business or at any adjoining use or property.

Sec. 30-517. Processor license.

Applicable standards for processor facilities:

(1) Only one Medical Marihuana Processor facility license permitted per parcel or lot.

(2) All Processing operations must be conducted within an enclosed building.

(3) A processor license authorizes the purchase of marihuana only from a grower and sale of marihuana-infused products or marihuana only to a provisioning center.

(4) An applicant and each investor in a processor license cannot have an interest in a secure transporter or safety compliance facility.

(5) A processor shall comply with all of the following:

a. Until December 31, 2021, have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.

b. While holding a license as a processor, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

c. Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

d. Transfer marihuana and marihuana-infused products only by means of a secure transporter.

Sec. 30-518. Secure transporter license.

Applicable standards for secure transporter:

(1) Secure Transporter facilities are only permitted warehousing activity as an accessory to the principal permitted Secure Transporter use.

(2) A secure transporter license authorizes the storage and transport of marihuana, marihuana-infused products and money associated with the purchase or sale of marihuana and marihuana-infused products between marihuana facilities at the request of a person with legal custody of the marihuana, marihuana-infused products, or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver who is not a licensee.

(3) An applicant and each investor with an interest in a secure transporter license cannot have an interest in a grower, processor, provisioning center, or safety compliance facility and cannot be a registered qualifying patient or a registered primary caregiver.

(4) A secure transporter which operates from a marihuana facility located within the City shall secure a license from the City. A State-licensed secure transporter which does not have a facility located in the City, may, without securing a license from the City operate on public streets and highways within the City.

(5) A secure transporter shall comply with all of the following:

a. Each driver transporting marihuana, marihuana-infused products, or money related to the purchase or sale of marihuana or marihuana-infused products must have a chauffeur's license issued by the State of Michigan.

b. Each employee of a secure transporter who has custody of marihuana, marihuana-infused products or money that is related to the purchase or sale of marihuana or marihuana-infused products shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

c. Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana or marihuana-infused products.

d. A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

e. The marihuana and marihuana-infused products shall be transported in 1 or more sealed containers and shall not be accessible while in transit.

f. A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

g. A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana or marihuana-infused products to determine compliance with this act.

h. A secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

i. When determining and reporting the route to take, a secure transporter shall select the most direct route that provides efficiency and safety.

Sec. 30-519. Provisioning center license.

Applicable standards for provisioning centers:

(1) Only one Provisioning Center license per parcel or lot.

(2) All Provision Center activities must be conducted within an enclosed building.

(3) A licensed provisioning center is authorized:

a. To purchase or receive marihuana from a grower;

b. To purchase or receive marihuana and marihuana-infused products from a processor; and

c. Sell or dispense marihuana and marihuana-infused products only to registered qualifying patients and registered primary caregivers.

(4) All transfers of marihuana and marihuana-infused products to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

(5) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

(6) An applicant and each investor in a provisioning center cannot have an interest in a secure transporter or safety compliance facility.

(7) A provisioning center shall comply with all of the following:

- a. Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.
- b. Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.
- c. Before selling or dispensing marihuana or marihuana-infused products to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver holds a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the Board.
- d. Not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- e. Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

(8) No marihuana plants shall be located in a provisioning center.

Sec. 30-520. Safety compliance facility license.

Applicable standards for safety compliance:

- (1) All testing must be conducted within an enclosed building.
- (2) A licensed safety compliance facility is authorized to:
 - a. Receive marihuana from, test marihuana for, and return marihuana to a marihuana facility; and
 - b. Receive from, test for, and return 2.5 ounces or less of marihuana to a registered primary caregiver.
- (3) A safety compliance facility must be accredited by an entity approved by the Board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The Board may grant a variance from this requirement upon a finding that the variance is

necessary to protect and preserve the public health, safety, or welfare.

(4) An applicant and each investor with any interest in a safety compliance facility cannot have an interest in a grower, secure transporter, processor, or provisioning center.

(5) A safety compliance facility shall comply with all of the following:

a. Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.

b. Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.

c. Perform tests that determine whether marihuana complies with the standards the Board establishes for microbial and mycotoxin contents.

d. Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.

e. Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

f. Have a secured laboratory space that cannot be accessed by the general public.

g. Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.

Division IV. General Requirements

Sec. 30-521. Compliance with rules; inspections.

(a) A licensee shall strictly comply with the rules and emergency rules that may from time to time be promulgated by the Department.

(b) A licensee shall adopt and use the statewide monitoring system of inventory control and tracking authorized by the Marihuana Tracking Act so as to provide the capability for the licensee to comply with the State requirements applicable to the type of license held by the licensee.

(c) A marihuana facility and all articles of property in the facility are subject to inspection, search and examination at any time by a member of the Bay

City Public Safety Department or the Department of State Police.

(d) Any failure by a licensee to comply with Department rules or the provisions of this Article is a violation of this Article and any infraction or violation, however slight, is sufficient grounds for suspension and revocation of licensure under this Article.

Sec. 30-522. Signage and advertising.

All signage and advertising for a medical marihuana facility shall comply with all applicable provisions of this Code including Chapter 85. In addition, it shall be unlawful for any licensee to:

- (1) Use signage or advertising with the word "marihuana", "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marihuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols;
- (2) Use advertising material that is misleading, deceptive or false or that, as evidenced by the content of the advertising material or by the medium or the manner in which the advertising material is disseminated, is designed to appeal to minors;
- (3) Advertise in a manner that is inconsistent with the medicinal use of medical marihuana or use advertisements that promote medical marihuana for recreational or any use other than for medicinal purposes.

Sec. 30-523 Warning signs.

There shall be posted in a conspicuous location in each facility a legible sign containing the content of this section warning that:

- (1) The possession, use or distribution of marihuana is a violation of federal law;
- (2) It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marihuana; and
- (3) No one under the age of eighteen (18) years is permitted on the premises.

Sec. 30-524. Security requirements.

(a) Security measures at all licensed premises shall comply with the requirements of all applicable rules and regulations promulgated by the Department.

(b) A description of the security plan shall be submitted with the application for a City operating license. The security system, shall be maintained in good working order and provide twenty-four hours per day coverage. A separate security

system is required for each facility.

(c) The security plan must include, at a minimum, the following security measures:

(1) Cameras. The medical marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marijuana or cash maintained by the medical marijuana business entity. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of thirty (30) days in a secure offsite location in the City or through a service over a network that provides on- demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the City and provided to the Department of Public Safety upon request, and updated within seventy-two hours of any change of such location.

(2) Use of safe for storage. The medical marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For medical marijuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe so long as the container is affixed to the building structure.

(3) Alarm system. The medical marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and updated within seventy-two hours of any change of monitoring company.

Sec. 30-525. Visibility of activities; control of emissions.

(a) All activities of marijuana commercial entities, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of marijuana and marijuana-infused products shall be conducted indoors and out of public view.

(b) No medical marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

(c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a marijuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marijuana commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be

responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Sec. 30-526. Marihuana cultivation.

(a) Cultivation, generally.

(1) Marihuana cultivation shall be conducted in a completely closed building.

(2) Marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the City and the State.

(3) Marihuana cultivation shall not occur in detached outbuildings.

(4) All marihuana cultivation shall take place in a locked and enclosed space.

(b) All marihuana products kept on premises where marihuana plants are grown shall be stored in a locked and enclosed space.

(c) All exterior and interior lighting shall meet the requirements of the Michigan Building Code and the National Electrical Code.

(d) No marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the dwelling at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.

Sec. 30- 527. Odor control.

(a) No person, tenant, occupant, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

(b) Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(c) A grower or a processor shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the premises.

Sec. 30-528. Separation of licensed premises.

A grower facility and processor facility are separate medical marihuana commercial entities requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each facility shall:

(1) Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.

(2) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical marihuana business and any adjacent business.

Sec. 30-529. Prohibited acts.

(a) It shall be unlawful for any licensee to permit the consumption of alcohol beverages on the licensed premises.

(b) It shall be unlawful for any licensee holding a provisioning center license, or for any agent, manager or employee thereof, to:

(1) sell, give, dispense or otherwise distribute medical marihuana or medical marihuana paraphernalia from any outdoor location;

(2) sell, give, dispense or otherwise distribute to any patient or primary caregiver who is not a licensee more usable form of medical marihuana (including the useable marihuana equivalent of medical marihuana-infused products) within any seven-day period of time than they are allowed by the MMMA to possess.

(c) It shall be unlawful for retail marihuana establishments to distribute marihuana or marihuana-infused products to a consumer free of charge.

(d) It shall be unlawful for any licensee to permit the consumption of retail marihuana or retail marihuana products on the licensed premises.

(e) It shall be unlawful for any licensee to sell marihuana or marihuana products at a licensed provisioning center at any time other than between the hours of 7:00 a.m. and 9:00 p.m. daily.

Sec. 30-530. Reports of crime.

Reports of all criminal activities or attempts of violation of any law at the medical marihuana facility or related thereto shall be reported to Bay City Department of Public Safety within twelve hours of occurrence, or its discovery, whichever is sooner.

Sec. 30-531. Inspection of licensed premises.

(a) During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by Department of Public Safety and all other City departments for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations.

(b) Consent to Inspection. Application for a medical marihuana business license or operation of a medical marihuana business, or leasing property to a medical marihuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the City manager to conduct routine examinations and inspections of the medical marihuana business to ensure compliance with this Article or any other applicable law, rule, or regulation. For purposes of this Article, examinations and inspections of medical marihuana businesses and recordings from security cameras in such businesses are part of the routine policy of enforcement of this article for the purpose of protecting the public safety, individuals operating and using the services of the medical marihuana business, and the adjoining properties and neighborhood.

(c) Application for a medical marihuana business license constitutes consent to the examination and inspection of the business as a public premise without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a medical marihuana license without a search warrant.

(d) A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a City inspector or investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this Article, the MMFLA, or applicable state administrative rules.

Sec. 30-532. Financial statements.

Within 30 days after the end of the State fiscal year, each licensee shall transmit to the City financial statements of the licensee's total operations. The financial statements shall be reviewed by a certified public accountant licensed in this State. The financial statements shall be in a manner and form prescribed by the Board.

Sec. 30-533. Additional requirements.

(a) No medical marihuana business may use metals, butane, propane, or other

flammable product, or produce flammable vapors, to process marihuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

(b) The City shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing medical marihuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

Sec. 30-534. Other laws remain applicable.

To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marihuana, the additional or stricter regulation shall control the establishment or operation of any marihuana commercial entity in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

Sec. 30-535. Grant of administrative authority.

The City Manager is granted the power and duty to fully and effectively implement and administer the license application process and issuance of Provisional Approval Certificates and Operating Licenses issued by the City under this Article.

Sec. 30-536. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including, but not limited to, any licensee, manager or employee of a marihuana commercial entity, or any customer of such business, who violates any of the provisions of this Article, shall be guilty of a misdemeanor punishable in accordance with section 1-15 of this Code.

Subject: Planning Commission Appointment
Reviewed By: City Manager: Dana L. Muscott Deputy City Manager: Tony Reyes
Prepared By: City Manager: Dana L. Muscott

PERTINENT FACTS:

On October 10, 2018, notification was given by the City Manager that there was one vacancy on the Planning Commission. The vacancy was created by William Branigan resigning.

One application was received from Matthew Lance.

Per City Commission adopted resolution, Mayor Newsham, Commission President Basmadjian, Commission Sgt-at-Arms Hilliker and Neighborhood Services Manager Terry Moulthane conducted the interview of Matthew Lance.

LEGAL ISSUES:

According to the Bay City Code of Ordinances, Administration, Section 2-182, “the planning commission shall consist of seven members who shall be appointed by the city commission.”

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

Planning Commission members are not compensated.

CITY GOALS:

RECOMMENDED ACTION:

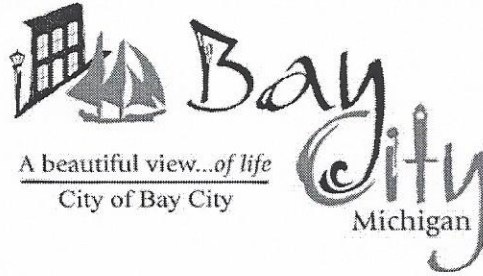
*Mayoral appointment of Matthew Lance Bay City, to the Planning Commission, term to expire October 21, 2020.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
application	12/14/2018	Cover Memo
resolution	12/14/2018	Cover Memo

CITY OF BAY CITY
APPLICATION FOR APPOINTMENT TO:



PLANNING Commission

Name of Board, Committee or Commission

Name: MATTHEW LANCE

Address: 306 SOUTH JOHNSON Bay City MI 48708

Email Address: MLANCE@MI-PA.NET

Cell/Home Phone No: 989-894-0474 Work Phone No: 989-667-9661 EXT 221

Employer: MPA Group NFP LTD Occupation: ADULT CLIENT SERVICES SUPERVISOR

Do you reside within the corporate boundaries of the City of Bay City? YES

If so, length of time you have resided in the City of Bay City: 31 YEARS

If you do not live in the City of Bay City, do you have an "interest" in this area? N/A

List your qualifications for the Board, Committee or Commission:

MEMBER M.P.A. GROUP OPERATIONS TEAM

PRESIDENT BOARD OF DIRECTORS NEW DIMENSIONS, INC

Do you meet the qualifications needed for this Board, Committee or Commission? YES I AM A RESIDENT OF THE CITY

Why are you interested in serving on this Board, Committee or Commission:

I AM SUPPORTIVE OF THE LONG RANGE MASTER PLAN FOR THE PHYSICAL DEVELOPMENT OF BY CY. AS MEMBER ND BOARD AND OPERATIONS TEAM DEALT WITH ISSUES OF ZONING AND NEW DEVELOPMENT

List any other information you feel would be pertinent in assisting the appointing authority and the City Commission in their selection:

HIPAA COMPLIANCE OFFICER RECIPIENT RIGHTS LIAISON

PAST PRESIDENT BY CY LIONS CLUB CHAIRMAN Bay County Board of CANVASSERS

Do you serve on any other City Board, Committees or Commissions? NO

Matthew Lance
Applicant Signature

11-26-18
Date Submitted

Please return form to: Dana Muscott, City Manager
301 Washington Avenue, Room 309
Bay City, MI 48708

Of the Mayor:

Resolved that Matthew Lance, Bay City, be appointed to the Planning Commission, term to expire October 21, 2020.

Subject: Lease Agreement- C & K Ratajczak Family Farms, LLC
Reviewed By: City Manager: Dana L. Muscott Deputy City Manager: Tony Reyes
Prepared By: Economic Development Project Manager: Sara Dimitroff

PERTINENT FACTS:

The purpose of this recommendation is to request approval of a lease agreement with C & K Ratajczak Family Farms, LLC for five years for certain areas of land located at 1901 S Trumbull in the amount of \$3,800 per year. This lease agreement may be terminated by either party on or before December 31 of any year for all remaining years.

The land used as farm land is approximately 35 acres of the 52 acre property commonly known as the city's "South End Property". C & K Ratajczak Family Farms, LLC utilizes the property to grow cash crops.

While staff continues to market the property, renting the property lowers the maintenance costs for the City.

LEGAL ISSUES:

City Attorney, Neil Wackerly, has prepared the Lease Agreement between the City of Bay City and C & K Ratajczak Family Farms, LLC.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

When a municipality rents unused city-owned property, the land then becomes taxable. Based upon the taxable value of the property and the millage rate, the yearly taxes will amount to approximately \$3,800, which is the rental rate city staff is recommending for the property.

In 2017, cash rents in Bay County averaged \$132 for non-tiled cropland, according to the MSU Extension Office in Saginaw County.

Proceeds from the rental of this property will be credited to the Economic Opportunities, Lease Income Account #451-7301-66711.

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending Lease Agreement with C & K Ratajczak Family Farms, LLC, for property located at 1901 S. Trumbull Street in the amount of \$3,800 per year for five years.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description

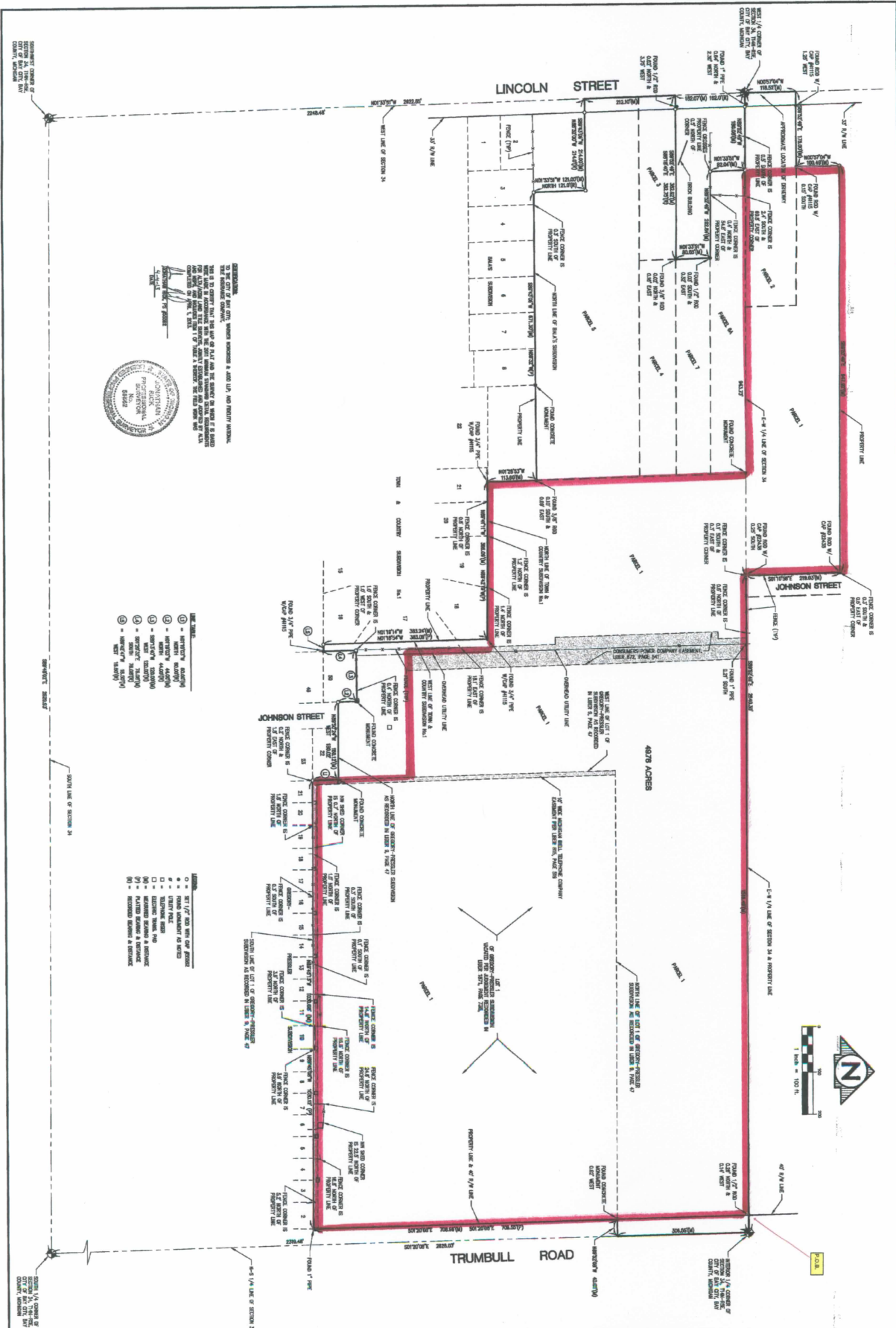
Upload Date

Type

Aerial
Lease Agreement

12/18/2018
1/3/2019

Backup Material
Contract



ALTA/ACSM LAND TITLE SURVEY PREPARED FOR CITY OF BAY CITY SOUTH END SITE PART OF SECTION 34, T14N-R5E, CITY OF BAY CITY, BAY COUNTY, MICHIGAN	 ROWE PROFESSIONAL SERVICES COMPANY The ROWE Building 540 S. Saginaw St., Ste. 200; P. O. Box 3748 Flint, MI 48502 O: (810) 341-7500 F: (810) 341-7573 www.rowepsc.com	PLAN DATE: APRIL 2013
		PROJECT MGR: JHR REVIEWER: JHR SCALE: 1" = 100'

LEASE AGREEMENT

The CITY OF BAY CITY, a Michigan municipal corporation, of 301 Washington Avenue, Bay City, Michigan 48708, hereinafter known as the "City", and C & K Ratajczak Family Farms, LLC, of 1143 E. Munger Road, Munger, MI 48747, hereinafter known as "Lessee", agree as follows:

1. For and in consideration of the sum of \$3,800.00 per year, the City leases to the Lessee, certain areas of land located in the City of Bay City, Bay County, Michigan, described, in the following manner:

COMMENCING FROM THE INTERIOR 1/4 CORNER OF SECTION 34 T14N-R5E BAY COUNTY MICHIGAN; THENCE WESTERLY 40 FEET ALONG THE E-W 1/4 LINE OF SECTION 34 TO THE WESTERLY RIGHT-OF-WAY LINE OF TRUMBULL ROAD AND THE POINT OF BEGINNING. THENCE SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF TRUMBULL ROAD 1015.5 FEET MORE OR LESS TO THE SOUTHEAST CORNER OF VACATED LOT 1 OF THE PLAT OF GREGORY-PRESSLER SUBDIVISION; THENCE N89°45'13"W ALONG THE SOUTH LINE OF SAID VACATED LOT 1 1030.08 FEET TO THE SOUTHWEST CORNER OF SAID VACATED LOT 1; THENCE N01°19'03"W 190 FEET; THENCE N89°50'24"W 300.15 FEET; THENCE N01°18'54"W, 297.24 FEET; THENCE N89°41'11"W 382.59 FEET; THENCE N01°28'53"W 608.77 FEET MORE OR LESS TO THE E-W 1/4 LINE OF SECTION 34; THENCE WESTERLY ALONG SAID E-W 1/4 LINE 943.73 FEET; THENCE NORTHERLY PARALLEL TO THE WEST LINE OF SECTION 34 219 FEET; THENCE S89°52'49"E 947.92 FEET; THENCE S01°10'58"E 219 FEET MORE OR LESS TO THE E-W 1/4 LINE OF SECTION 34; THENCE EASTERLY ALONG SAID E-W 1/4 LINE 1476.49 FEET BACK TO THE POINT OF BEGINNING. CONSISTING OF APPROXIMATELY 1,524,600+- SQUARE FEET OF LAND OR 35 ACRES MORE OR LESS. (See attached exhibit.)

2. This lease agreement shall be for a period of five (5) years becoming effective on the 1st day of January 2019 and continue until the 31st day of December, 2023. Notwithstanding the above, this lease agreement may be terminated by either party on or before December 31 of any year for all remaining years.

3. The City will invoice the Lessee each year. Payment of all amounts due under the terms of this lease agreement shall be made on or before December 1st of each calendar year.

4. The premises shall be used for farming purposes by Lessee and for no other purpose. Non-compliance with this provision of the contract shall give rise to immediate cancelation thereof and allow the City to immediately re-enter and take possession of the above-rented premises and hold the same throughout the remaining term of the lease.

5. The Lessee agrees that at all times, the premises shall be kept free from an undue growth of weeds and that no expense whatsoever shall attach to the City in the elimination of said weeds. Should Lessee fail to control the growth of weeds, the City may enter the premises, remove the same and charge Lessee for the actual cost of removal.

6. The Lessee further agrees as follows:
 - a. Faithfully cultivate the property in a timely, thorough and businesslike manner.
 - b. Not to break up or interfere with, the established water courses or ditches, or to undertake any other operation that will injure any established irrigation system or the land.
 - c. Prevent all unnecessary waste, loss, or damage to the property.
 - d. Keep the property neat and orderly.
 - e. Cultivation of marijuana is prohibited.

7. Lessee shall have no right to assign this agreement or sublet the above described land or any part thereof without the written consent of the City.

8. Lessee acknowledges that the Lessee has examined the premises and that the same is fit for the purpose contemplated under the terms of this lease and accepts the same in its "as is " condition.

9. Lessee agrees to keep the premises in good farm-like manner, and upon the expiration of this agreement the land shall be returned in as good condition as in the beginning.

10. Lessee agrees to save the City harmless from any and all liability by reason of property damage or personal injury to or death of any person or persons, including property damage, or injury to or death of Lessee, on or about the leased premises, or caused the Lessee or by its agents, servants and employees, on or about the leased premises.

11. Lessee shall provide the insurances (for the specific coverage's and limits of liability) which are indicated below:

- a. Workers Compensation insurance. Worker's Compensation insurance including Employer's Liability to cover employee injuries or disease compensable under the Workers' Compensation Statutes of Michigan, or federal compensation acts, if applicable. Self-insurance plans approved by the regulatory authorities in Michigan are acceptable.
- b. Comprehensive General Liability. A Comprehensive General Liability policy in the amount of \$500,000.00 for injuries including accidental death to any one person, and \$1,000,000.00 for injuries including accidental death resulting from one accident; property damage in the amount of not less than \$500,000.00 per accident and the same amount in the aggregate.
- c. The City shall be named as an additional insured as follows:

IT IS UNDERSTOOD AND AGREED THAT THE FOLLOWING SHALL BE ADDITIONAL INSURED; THE CITY OF BAY CITY, MICHIGAN, AND INCLUDING ALL ELECTED AND APPOINTED OFFICIALS, ALL EMPLOYEES, ALL BOARDS, COMMISSIONS AND/OR AUTHORITIES AND THEIR BOARD MEMBERS AND EMPLOYEES.

This coverage shall be endorsed as being Primary to the City and not contributing or pro rata with any other insurance or similar protection (e.g. Risk Management Association) which is or may be available to or carried by the City. Lessee shall provide the City with a certificate or other evidence of all required coverages. The certificate or other evidence of coverage shall provide a thirty (30) day written notice the City in the event of cancellation or material changes in the coverage.

- d. Comprehensive Automobile/Vehicle Liability. A Comprehensive Automobile Liability policy to cover bodily injury and property damage arising out of the operation, ownership, maintenance or use of any motor vehicle, including owned, non-owned and hired vehicles. The Comprehensive Auto Liability shall be written in the minimum amounts of \$500,000.00 for injuries including accidental death to any one person and \$1,000,000.00 for injuries including death resulting from any one accident. This policy must also provide \$500,000.00 property damage coverage.

Dated this _____ day of _____, 2019

Lessee:
C & K Ratajczak Family Farms, LLC

By: _____
Chris Ratajczak, Managing Member

Dated this _____ day of _____, 2019

City of Bay City:

By: _____
Kathleen Newsham
Its: Mayor

By: _____
Tema J. Lucero
Its: Clerk

Prepared by:
Neil P. Wackerly (P27812)
Allsopp Wackerly & Blossom
Attorneys and Counselors, P.C.
301 Washington Avenue, Suite 107
Bay City, MI 48708
(989) 893-1661

Subject: Budget Amendments

Reviewed By: City Manager: Dana L. Muscott; Deputy City Manager: Tony Reyes, Jr.; Fiscal Services Director: George Martini; Chief Accountant: Angela Willsie

Prepared By: Senior Staff Accountant: Andrea Szymanski

PERTINENT FACTS:

During the annual budget process, each division/department manager is expected to project a budget for their respective departments. As part of this process, the division/department manager estimates the dollar amount of anticipated costs for many line items, including labor costs, operating costs, professional services, capital purchases and construction projects to be completed during the fiscal year.

However, as the year progresses, there are many factors that can affect revenues and expenditures and may require an adjustment to the line items within the budget. There are three budget amendments being recommended at this time.

The first budget amendment is in the Major Street Fund (202) and the Local Street Fund (203) in the amount of \$100,169 and \$240,878 respectively. It utilizes Committed Net Assets to fund the Sidewalk Replacement Program approved by Commission in FY17. This amendment has no impact on revenue, increases expenditures in the amount of \$341,047 and utilizes Fund Balance in the amount of \$341,047.

The second budget amendment is in the Knepp TIF (286) in the amount of \$2,400. It increases the amount in the Assets Under the Capital Threshold expenditure account to accommodate the purchase of new trash receptacles utilizing Fund Balance. This amendment has no impact on revenue, increases expenditures in the amount of \$2,400 and increases the use of Fund Balance in the amount of \$2,400.

The final budget amendment is in the Brownfield Fund (295) in the amount of \$325,000. It increases State Grant revenue and Professional Services expenditures to reflect a grant award from MIDEQ for the 1113 Center project. This amendment increases revenue and expenditures in the amount of \$325,000 and has no impact on Fund Balance.

The attached budget amendments in total increase revenue by \$325,000, increase expenditures by \$668,447, and increases the use of fund balance in the amount of \$343,447 as detailed above.

LEGAL ISSUES:

These amendments are required to ensure compliance with the State Uniform Budgeting Act.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

The following funds will be amended to increase/(decrease) both revenues and expenditures in the amounts indicated:

	Revenue	Expenditures	Fund Balance Impact
--	---------	--------------	------------------------

Major Streets	-	100,169	(100,169)
Local Streets	-	240,878	(240,878)
Knepp TIF	-	2,400	(2,400)
Brownfield	325,000	325,000	-

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending budget amendments in the amount of \$343,447 for the Fiscal Year 2018/2019 budget.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
Budget Amendments	12/19/2018	Budget Amendment


CITY OF BAY CITY BUDGET AMENDMENT/TRANSFER


Date: December 6, 2018

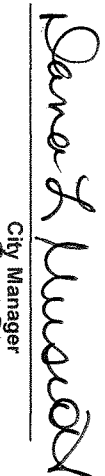
Department: DPW/Engineering

Fund Name	Account Number (xxx-xxxx-xxxx)	Account Title	Current Budget Balance	Proposed Modification	Explanation
Major Streets	202-4411-68700	Appropriated Fund Balance	\$ 63,932	\$ 100,169	Commission approved a 1% administrative fee for a Sidewalk Replacement Program to begin in FY 2017. This amounts to approximately \$300,000 per year (slightly less). As the funds were not available until November 2017, not all of the funds were used. They were entered into the Committed Net Assets. We are now in the third FY (2019), and we are moving the funds to the Sidewalk Account to finish the work.
Major Streets	202-4477-93600	Non-Motorized Improvements	\$ 44,848	\$ 100,169	The remaining funds from previous fiscal years will be used for the Sidewalk Replacement Program, as the revenue that was collected was allocated.
Local Streets	203-4491-68700	Appropriated Fund Balance	\$ 154,731	\$ 240,878	Commission approved a 1% administrative fee for a Sidewalk Replacement Program to begin in FY 2017. This amounts to approximately \$300,000 per year (slightly less). As the funds were not available until November 2017, not all of the funds were used. They were entered into the Committed Net Assets. We are now in the third FY (2019), and we are moving the funds to the Sidewalk Account to finish the work.
Local Streets	203-4477-93600	Non-Motorized Improvements	\$ 41,403	\$ 240,878	The remaining funds from previous fiscal years will be used for the Sidewalk Replacement Program, as the revenue that was collected was allocated.
			\$ 304,914	\$ 682,094	

APPROVALS:


 Division/Department Head
 Date: 12-6-18


 Director of Fiscal Services
 Date: 12-17-18


 City Manager
 Date: 12-18-18

Budget Amendments modify fund balance for additional expenses/expenditures, increases/decreases total revenues, and/or moves budgets between funds and/or activities. Budget Transfers move budgeted expenses/expenditures or revenues from one account to another within a General Fund activity or within funds of any other fund.

All Budget Amendments require City Commission approval. The City Manager may approve transfers of funds within any department activity budget from any account except for contingents, where there is a surplus to any account, in an amount not to exceed \$4,500 in total transfers for any one fiscal year.

Any transfer of funds in excess of \$4,500, transfer between departmental activities and those involving a request for contingent funds shall be submitted to the City Commission for their approval. Please submit all Budget Amendments/Transfers to the Fiscal Services Department prior to the approval of the Director of Fiscal Services and/or the City Manager.

Commission Approved Date: _____ Date Entered: _____ By: _____

CITY OF BAY CITY BUDGET AMENDMENT/TTRANSFER

Date: December 12, 2018

Department: DDA / KNEPP TIF

Fund Name	Account Number (xxx-xxxx-xxxx)	Account Title	Current Budget Balance	Proposed Modification	Explanation
KNEPP TIF	286-7111-68700	APPROPRIATED FUND BALANCE	0	2,400	To budget for new trash receptacles on Knepp Property utilizing Fund Balance
KNEPP TIF	286-7120-78700	ASSETS UNDER CAP THRESHLD	(2,400)	2,400	To budget for new trash receptacles on Knepp Property utilizing Fund Balance
			0	0	

APPROVALS:

Shirley M. ...
 Division/Department Head
 Date: 12-17-17

Jeane ...
 Director of Fiscal Services
 Date: 12-17-18

Dena ...
 City Manager
 Date: 12-18-18

Budget Amendments modify fund balance for additional expenses/expenditures, increases/decreases total revenues, and/or moves budgets between funds and/or activities.

Budget Transfers move budgeted expenses/expenditures or revenues from one account to another within a General Fund activity or within funds of any other fund.

All Budget Amendments require City Commission approval.

The City Manager may approve transfers of funds within any department activity budget from any account except for contingents, where there is a surplus to any account, in an amount not to exceed \$4,500 in total transfers for any one fiscal year.

Any transfer of funds in excess of \$4,500, transfer between departmental activities and those involving a request for contingent funds shall be submitted to the City Commission for their approval.

Please submit all Budget Amendments/Transfers to the Fiscal Services Department prior to the approval of the Director of Fiscal Services and/or the City Manager.

Commission Approved Date: _____ Date Entered: _____ By: _____

Subject:

Reviewed By: City Manager: Dana L. Muscott Deputy City Manager: Tony Reyes Jr.

Prepared By:

PERTINENT FACTS:

LEGAL ISSUES:

TIME SENSITIVITY:

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

CITY GOALS:

RECOMMENDED ACTION:

*Minutes - Finance Policy Committee (12/17/18).

RECOMMENDATION: Approve.

ATTACHMENTS:

Description

FP 12/17/18

Upload Date

12/20/2018

Type

Cover Memo

CITY OF BAY CITY
CITY COMMISSION
FINANCE/POLICY COMMITTEE MEETING MINUTES
Monday, December 17, 2018

The Finance/Policy Committee met at City Hall, Commission Chambers, 301 Washington Avenue. The meeting was called to order by Commission President Kerice Basmadjian at 6:34 PM.

Present: Commissioners Jesse Dockett, David Terrasi, Andrew Niedzinski, Brentt Brunner, Rachelle Hilliker, John Davidson, Kerice Basmadjian, Ed Clements and Cordal Morris, 9.
Absent: None.
Others Present: City Manager Dana Muscott, Director of Public Safety Michael Cecchini, Deputy Director of Public Safety Edward Bromberg, Fiscal Services Director George Martini, Human Resource Director Mikki Manion, DPW Manager of Streets, Sanitation and Fleet Kurt Hausbeck, Neighborhood Services Manager Terry Moulthane, Code Enforcement Officer Sue Coggin, Mayor Kathleen Newsham and City Clerk Tema J. Lucero.

Agenda Review

None.

Other Issues/Concerns/Announcements

Commissioner Clements asked if Charter Commissioners are paid per meeting and if the security cameras around city hall were all the way around the perimeter. City Manager Muscott responded that Charter Commissioners are paid \$25 per meeting and she can check the security camera angles and let him know.

Commissioner Davidson stated he and the mayor attended a function at the Electric Department, 150 years of service is definitely something to celebrate and thanked them for the work they do.

Mayor Newsham said the staff at the Electric Department put on a great presentation, she is very grateful for the crews that work for the city and thanked all staff at the Electric Department.

Commissioner Brunner thanked all staff at city hall and all city employees for their work this year. He is looking forward to working on more projects in 2019 and continuing to eliminate blight. He asked the City Manager if the online bill payment option is removed after one NSF fee. City Manager Muscott stated she will look into the limit and let him know.

Commissioner Niedzinski stated the County Land Bank just went through their auction, and also has a few new projects in the works, one is involving the High School students in rehabbing houses.

Commissioner Basmadjian thanked everyone for getting through 2018 together, she is looking forward to keeping the positive attitude moving throughout 2019. She wished everyone a Merry Christmas and Happy New Year.

Public Input

Delores Kerr, 2403 Kopka Court, asked if the dirt being removed across the street is contaminated and if so asked where it is being hauled to.

Meeting adjourned at 6:43 PM.

Respectfully submitted,

Tema J. Lucero
City Clerk

Subject: Historic District Commission appointment
Reviewed By: City Manager: Dana L. Muscott; Deputy City Manager: Tony Reyes
Prepared By: City Manager: Dana L. Muscott

PERTINENT FACTS:

The Historic Preservation Ordinance, creating the Historic District Commission, was adopted by the City Commission on November 21, 2005. One vacancy were advertised October 11, 2018, for the committee, and one application was received from Christopher Ibanez. The vacancy was created by the resignation of John Horwath.

Per City Commission adopted resolution, interviews were conducted by Commission President Basmadjian, Commission Sgt-at-Arms Hilliker, and City Manager delegate Terry Moulane. Mr. Ibanez was interviewed and is recommended for appointment.

LEGAL ISSUES:

According to Chapter 64, Section 64-6, Code of Ordinances, the committee shall consist of 7 members, to be appointed by the City Commission. Persons appointed must be residents of the city. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

The members of Historic District Commission do not receive any compensation to attend meetings.

CITY GOALS:

RECOMMENDED ACTION:

*Commission as a Whole resolution appointing Christopher Ibanez, Bay City, to the Historic District Commission, term to expire May 1, 2020.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
application	12/14/2018	Cover Memo
Resolution	12/14/2018	Cover Memo

**CITY OF BAY CITY
APPLICATION FOR APPOINTMENT TO:**



Historic District Commission

Name: Christopher J. Ibanez

Address: 1831 Ninth St., Bay City, MI 48708

Email Address: cjibanez@yahoo.com

Cell/Home Phone No: 989.714.4102

Work Phone No: 313.317.9635

Employer: GSA

Occupation: Lead Project Manager

Do you reside within the corporate boundaries of the City of Bay City? Yes

If so, length of time you have resided in the City of Bay City: 13 yrs. 4 mos.

If you do not live in the City of Bay City, do you have an "interest" in this area? N/A

List your qualifications for the Board, Committee or Commission:

I have completed coursework in architectural history and philosophy, training through the Advisory Council on Historic Preservation (ACHP), and have a working knowledge of The Secretary of the Interior's Standards for the Treatment of Historic Properties and the Section 106 of the National Historic Preservation Act of 1966 (NHPA). See attached resume.

Do you meet the qualifications needed for this Board, Committee or Commission? Yes

Why are you interested in serving on this Board, Committee or Commission:

I consider Bay City's historic districts to be a vital community resource. I am interested in serving on the Historic District Commission to protect and preserve these resources so that they can be enjoyed and appreciated by all.

List any other information you feel would be pertinent in assisting the appointing authority and the City Commission in their selection:

As a Lead Project Manager for the GSA in Detroit, I have served as project sponsor for multiple projects that affect federal properties in Michigan that are either eligible for or are listed on the National Register for Historic Places (NRHP). I am also currently assigned as Project Manager for projects at the Rosa Parks Federal Building and the Hart-Dole-Inouye Federal Center that require

coordination and involvement with GSA Historic personnel due to the project's impact on building's historic fabric.

As a Project Manager for GSA in Chicago, I was assigned to multiple projects that required familiarity with The Secretary of the Interior's Standards for the Treatment of Historic Properties and coordination with GSA Historic personnel. Most notably of these assignments were the critical inspection and façade stabilization of the South State Street properties and wood panel restoration of the U.S.P.O. Loop Station. The critical inspection and façade stabilization of the South State Street properties was significant because of their being listed on the NRHP and part of the Loop Retail Historic District. The wood panel restoration of the U.S.P.O. Loop Station was significant because of it being designed by architect Ludwig Mies van der Rohe and listed on the NRHP.

As an Architect (Cultural Resource Manager), I have acted as principle advisor regarding historic preservation and as a liaison to federal/state regulatory and advisory agencies for Fort Leavenworth, KS. Fort Leavenworth, KS is the oldest active military installation West of the Mississippi River, with approximately one third of the installation being listed as a National Historic Landmark District (NHL). See attached resume.

Do you serve on any other City Board, Committees or Commissions? No

CHRISTOPHER
IBANEZ

Digitally signed by
CHRISTOPHER IBANEZ
Date: 2018.11.25 21:37:19 -05'00'

11/25/2018

Applicant Signature

Date Submitted

Please return form to: **Dana Muscott, City Manager**
301 Washington Avenue, Room 309
Bay City, MI 48708

Christopher J. Ibañez

1831 Ninth Street
Bay City, MI 48708
(C) 989.714.4102
cjibanez@yahoo.com

OBJECTIVE

Utilize my education, experience, and energy to serve the City of Bay City and its residents as a member of the Historic District Commission.

WORK EXPERIENCE

U.S. General Services Administration (GSA)

2016 – Present

Detroit, MI

Lead Project Manager

- Ensuring that PBS' strategic plan, mission, vision and values are communicated to team members and integrated into the team's strategies, goals, objectives, tasks, work products and services.
- Providing expert advice on project management roles and recurring work assignments to team members.
- Coaching the team in problem solving methods and techniques.
- Coordinating with the supervisor to distribute and balance workloads; monitoring and reporting on the status and progress of work; reviewing completed work and making adjustments to accomplish and prioritize team tasks.
- Training or arranging for the training of team members.
- Perform duties of a Project Manager for projects that are of a highly complicated or sensitive nature.

U.S. General Services Administration (GSA)

2015 - 2016

Chicago, IL

Project Manager

- Developing project schedules and activities in support of project requirements and developing cost and financial documentation for assigned projects.
- Coordinating development of project activities and obtaining final commitment on final schedules and plans.
- Participating in procurement planning for projects.
- Negotiating contract specifications and design changes.
- Monitoring project reviews, readjusting funds, schedules, scopes of work for assigned projects.
- Participating and conducting formal and informal presentations, briefings or necessary customer interactions on all aspects of projects.
- Performing technical duties necessary for the management on on-site construction, renovation and repair projects.
- Developing cost estimates for design and/or construction work that needs to be contracted out.

Directorate of Public Works

2012 – 2015

Fort Leavenworth, KS

Architect (Cultural Resource Manager)

- Oversee all aspects of the Cultural Resource Management Program for Fort Leavenworth, to include compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) for all properties identified in the Fort Leavenworth National Historic Landmark District (NHLD).
- Coordinate with the Kansas State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP) for work programmed on historical facilities to obtain agreement on items in accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA).
- Act as principle advisor regarding historic preservation and as a liaison to federal/state regulatory and advisory agencies.
- Review all projects affecting historic properties to ensure that they comply with Army Regulation 200-4, Programmatic Agreements (PAs), Memoranda of Agreement (MOAs) and other pertinent laws, making recommendations to mitigate adverse effects as required.
- Completed the ACHP Section 106 Essentials (February 2013) and Advanced Section 106 Seminar (July 2013)

Combined Arms Center - Leader Development & Education (CAC-LD&E)

2009 – 2012

Fort Leavenworth, KS

Engineering Technician (Facility Design)

- Independently responsible for the planning, design, coordination, furnishing of technical assistance and review of facility design aspects for all new, altered or renovated facilities.
- Responsible for representing the interests of all CAC-LD&E sub-ordinate directorates and coordinating among the United States Army Corps of Engineers (USACE), Fort Leavenworth Directorate of Public Works, architects, engineers and contractors.
- Evaluate, develop and recommend courses of action involving changes and/or alterations to CAC-LD&E facilities and their utilization.
- Responsible for the renovation of four buildings within the CAC-LD&E academic campus, with a combined square footage of approximately 370,000 s.f. and at an approximate total cost of \$75.6 million.
- Possess a security clearance at the Secret level, adjudicated in April of 2010.
- Possess the LEED Credential of LEED AP BD+C (August 2011) thru the Green Building Certification Institute (GBCI)
- Awarded the Commander's Award for Civilian Service

Wigen Tincknell Meyer & Associates

2004 – 2009

Saginaw, MI

Architectural Intern

- Performed and assisted project architects in the performance of technical architectural project management for in-house designs of various sizes and scope.
- Prepare information regarding design, specifications, materials, color, equipment or estimated costs.
- Represent client in obtaining bids and awarding construction contracts.
- Analyze building codes, by-laws, space and site requirements and other technical documents and reports to determine their effect on architectural designs.
- Prepare cost estimates, bidding documents and technical reports for specific projects under an architect's supervision.

EDUCATION

Ball State University

2000 – 2005

Muncie, IN

Major: Environmental Design, Architecture

Minor: History

- Bachelor of Science (May 2005)
- GPA: 3.35
- Golden Key International Honour Society
- Dean's List (Fall 2000 & Spring 2001)

Delta College

1998 – 2000

University Center, MI

Major: Architectural Technology

- Associate of Applied Science (April 2000)
- GPA: 3.94
- Graduated with Highest Honors
- Outstanding Hispanic Graduate
- Phi Theta Kappa
- Saginaw Valley Chapter of the American Institute of Architects (AIA) - Delta College 2nd Year Scholarship
- President's List (Fall 1998, Winter 1999 & Winter 2000)
- Vice-President's List (Winter 1998 & Fall 1999)

Of Commission as a Whole:

Resolved that Christopher Ibanez, Bay City, term to expire May 1, 2020, be appointed to the Historic District Commission.

Subject: Resolution giving the City of Bay City authorization to refinance their existing HUD 108 Loan, B-98-MC-26-0003

Reviewed By: City Manager: Dana L. Muscott Deputy City Manager: Tony Reyes

Prepared By: Debbie Kiesel-Community Development Director

PERTINENT FACTS:

This recommendation is seeking approval of the attached resolution authorizing the City of Bay City to refinance their existing HUD 108 loan, note number B-98-MC-26-0003.

On July 15, 2002, the City Commission authorized the City of Bay City to submit an application to the Department of Housing and Urban Development (HUD) for Section 108 loan guarantee funding for development of the Hotel Conference Center. HUD approved the application and awarded Bay City a 108 guarantee note (B-98-MC-26-0003) in the principal amount of \$2,500,000, plus interest with a twenty year term ending in year 2022.

The HUD Financial Management Division has contacted Bay City about refinancing the original Section 108 loan as HUD will be holding a public offering for the Section 108 Loan Guarantee Program tentatively scheduled for February 13, 2019. The City of Bay City's current note has a balance of \$975,000. Based on current estimates, the net savings to Bay City would be approximately \$35,017, between now and the note's final maturity date in 2022. The estimated saving is based on recently quoted yield on US Treasury obligations, which may be either higher or lower when the public offering rates are finalized in February. Terms of the new promissory note (other than the interest rates) must be exactly the same as the existing promissory note.

See below the City's current interest rates under the Series 2008-A note compared to the projected interest rates for the Series 2019-A offering (base on current US Treasury yield and estimated spreads) The 2019 estimated interest rates are noticeably lower:

Payment Date	2008-A	2019-A*
Aug 1, 2019	4.87%	2.89%
Aug 1, 2020	4.96%	3.05%
Aug 1, 2021	5.05%	3.08%
Aug 1, 2022	5.13%	3.13%
Aug 1, 2023	5.19%	3.15%
Aug 1, 2024	5.25%	3.20%
Aug 1, 2025	5.30%	3.33%
Aug 1, 2026	5.34%	3.38%
Aug 1, 2027	5.38%	3.52%
Aug 1, 2028	5.42%	3.57%

*Estimated rates as of 11/26/2018.

In addition to the resolution Bay City shall submit the following executed documents to HUD by the close of business on January 16, 2019.

- 108 Loan Note
- Contract for Loan Guarantee Assistance
- Request for Advance
- Updated Signature Card
- Legal Opinion

All required documentation is the same as the original documentation in 2002, the only changes will be the interest rate, authorized signers and dates.

Once all steps have taken place the City of Bay City will have a new, permanent, fixed-rate note at lower interest rates than its previous note. Bay City will continue to make payments on a semi-annual basis until the year 2022.

LEGAL ISSUES:

There are no legal issues.

TIME SENSITIVITY:

Urgent;immediate action is necessary

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

All documentation must be returned to the Department of Housing and Urban Development(HUD) by the close of business on Wednesday, January 16, 2019.

FINANCIAL CONSIDERATIONS:

The current balance on the existing 108 loan is \$975,000, refinancing the loan at a lesser interest rate would save the City of Bay City an estimated \$35,017, between now and the note's maturity date year 2022.

Issuance costs are the responsibility of Bay City. Estimated issuance costs on the new note are expected to be approximately 0.5% of the loan amount, \$4,875. Community Development Block Grant (CDBG) funds will be used to pay the issuance costs.

CDBG funds will be used to make 108 loan payments. CDBG funds have been consistently used to make the Bi-Annual 108 loan payments up to this date.

CITY GOALS:

RECOMMENDED ACTION:

*Commission as a Whole Resolution authorizing the City of Bay City to refinance their existing HUD 108 Loan.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description

Resolution Authorizing 108 Loan Refinance

Upload Date

1/4/2019

Type

Cover Memo

Of Commission as a Whole;

Whereas, the City of Bay City, by Resolution adopted July 15, 2002, authorized an application seeking loan guarantee assistance under Section 108 of the Housing and Community Development Act of 1974, as amended, from the United States Department of Housing and Urban Development (“HUD”), and did accept HUD’s guarantee of Section 108 note number B-98-MC-26-0003 for the Hotel Conference Center under a Section 108 Contract for Loan Guarantee Assistance dated August 30, 2002; and,

Whereas, the assistance provided by HUD was the guarantee of a note in the original principal amount of \$2,500,000, plus interest thereon; and,

Whereas, HUD has notified the City of Bay City that a public offering will occur in February, 2019, and to participate, the City of Bay City must immediately notify HUD of its intention to refinance all or a portion of its existing Section 108 commitment through the public offering; and,

Whereas, HUD may require, as a condition of participation in the public offering, that the City of Bay City execute documents related to the transaction, and whereas the City of Bay City has previously agreed to pay Bay City’s share, as determined by HUD, of the customary and usual issuance, underwriting, and other costs related to the public offering and future administration of the Note and the trust certificates; and,

Whereas, it is economically sound and in the best interest of the City of Bay City to accept more favorable fixed rates of interest under the Section 108 Loan Guarantee program offered by HUD under the public offering;

Now Therefore Be It Resolved that the Bay City City Commission, the City Manager, or his duly authorized agent, have notified HUD of the City of Bay City’s desires to participate in the February, 2019 public offering by HUD through the loan guarantee assistance program under Section 108 of the Housing and Community Development Act of 1974, as amended, for the existing obligation B-98-MC-26-0003 in the original principal amount of \$2,500,000, and to refinance the original principal amount of \$2,500,000 at such rates of interest that will be determined by HUD at the time of the public offering.

Be It Further Resolved that the Mayor and Clerk are authorized to execute the necessary documents as required by HUD to refinance the existing guaranteed Section 108 Note, and to execute such other documents, contracts, amendments and agreements with HUD, and to authorize payment of any required fees, as may be necessary to effectuate this refinancing transaction.