



**CITY OF WALLED LAKE
REGULAR COUNCIL MEETING
TUESDAY, OCTOBER 15, 2019
7:30 P.M.**

The Meeting was called to order at 7:30 p.m. by Mayor Ackley.

Pledge of Allegiance led by Mayor Ackley.

Invocation led by Mayor Pro Tem Owsinek.

ROLL CALL: Mayor Ackley, Mayor Pro Tem Owsinek, Council Member Ambrose, Council Member Costanzo, Council Member Lublin, Council Member Robertson

There being a quorum present, the meeting was declared in session.

OTHERS PRESENT: City Manager Whitt, Assistant City Manager Pesta, Police Chief Shakinas, Fire Chief Coomer, Finance Director Barlass, City Attorney Vanerian, and City Clerk Stuart

CM 10-1-19 MOTION TO EXCUSE COUNCIL MEMBER LOCH FROM TONIGHT'S MEETING

Motion by Robertson, seconded by Ambrose, UNANIMOUSLY CARRIED: To excuse Council Member Loch from tonight's meeting.

REQUEST FOR AGENDA CHANGES: None

APPROVAL OF THE MINUTES:

1. Regular Council Meeting of September 17, 2019

CM 10-2-19 MOTION TO APPROVE REGULAR COUNCIL MEETING MINUTES OF SEPTEMBER 17, 2019

Motion by Owsinek, seconded by Lublin, CARRIED: To approve the Regular Council Meeting minutes of September 17, 2019.

Discussion

Council Member Costanzo said he had a point of inquiry on page 16 of the minutes from the last council meeting he said he had discussed the placing of political signs on private property.

Council Member Costanzo handed a copy of what he stated was a United States Supreme Court case, to the city clerk and asked that the case be included in the city's records.

City Manager Whitt responded that we are all familiar with that United States Supreme Court ruling and the discussion that took place.

Council Member Costanzo said his point of inquiry is on page 13 to the City Attorney, asking if the state required recreational marijuana facilities to be at a medical marijuana establishment. Council Member Costanzo said the record does not show the answer. Council Member Costanzo made a motion to amend the record. Motion die due to lack of support.

Council Member Ambrose explained to Council Member Costanzo that the City Attorney had already explained that the first two years, recreational has to be at a medical marijuana facility.

City Attorney Vanerian also explained to Council Member Costanzo that it is required by state law to have someone who is approved by the state to have a medical facility.

Roll Call Vote

Ayes (5)	Lublin, Owsinek, Robertson, Ambrose, Ackley
Nays (1)	Costanzo
Absent (1)	Loch
Abstention (0)	

AUDIENCE PARTICIPATION:

Sun Barker, 121 E Walled Lake Drive – said she is the businesses owner of Liz's Cleaners and Tailor. Ms. Barker stated that her request is for sidewalks. Ms. Barker opined the dangerous conditions of the sidewalks and that they are overdue to be addressed. Ms. Barker said she would like to see it done and that it is the most important thing for everybody.

Karen Kolke, 179 Spring Park – said she has concerns regarding a new provisioning center at the end of her block. Ms. Kolke said her understanding was that there was a center on the other side of the Maher building that did receive site plan approval. Ms. Kolke noted a sign on the old Dale's Jewelry Store stating that a new provisioning center is opening soon. Ms. Kolke questioned if there is a distance required between provisioning centers?

City Manager Whitt explained that there is a distance requirement. Mr. Whitt stated that the site occupying the old Dale's Custom Jewelry does not have a city business license and has not been approved by the city. Mr. Whitt said the site that did receive preliminary approval is next door. Mr. Whitt stated that the building Ms. Kolke is referencing has not been approved for city business license. Mr. Whitt said according to the city ordinances of today, that site is not a legal provisioning center. Mr. Whitt explained that Ms. Kolke was correct, there should only be one in that area; neither of those locations have a city business license. Mr. Whitt opined that he was opposed to Proposal 1, which would allow provisioning centers everywhere.

Diane Johnson, resident – stated that on September 10, 2019 she attended a DDA meeting to inquire about the fountain at CVS by Maple and Pontiac Trail. Ms. Johnson said she was directed to speak with the DPW Director. Ms. Johnson listed multiple days she came or called city hall. Ms. Johnson said on September 27, 2019 she went to city hall and Ms. Pesta stated her concern that Ms. Johnson was stalking Ms. Pesta. Ms. Johnson said she engaged the City Manager as he come out of his city office and the manager's response to Ms. Johnson by telling her not to come to city offices to harass the workers. Ms. Johnson said that the City Manager stated her actions were politically motivated.

Delphine Hall, 545 Winwood – said she is an absentee voter and did not receive her application. Ms. Hall said she called city hall twice and requested and did not receive. City Clerk Stuart responded application were mailed to Walled Lake voters.

Tina Thurston, 1334 Delta – said she spoke with Chief Shakinis regarding a personal conversation that was posted on social media. Ms. Thurston said that a post was made that she was an “actual threat to the police and fire department.”

Darlene Ciampa, 1717 Ashstan – opined that people are afraid to come to city council meetings because their first and second amendment rights will be violated.

Mike Johnson, 1269 Delta – said he was looking for repair information about the roads in Tri-A. Mr. Johnson commented that his front lawn is sinking, and his timbers are being thrown into the culvert.

Manager Whitt responded that the project is not closed out yet, and the city will have a meeting to address the concerns in Tri-A. Mr. Whitt said that the city is looking for federal grants for road repair. Mr. Whitt said that the city will work with the engineer to make the neighborhood as good as or better than before the upgrades started.

Mr. Johnson asked what is the plan for the public safety campus expansion.

Manager Whitt explained that there is a proposal to create a police, fire, and veteran's memorial on the field. Mr. Whitt explains that forfeiture funds will be used to develop the multipurpose facility. Mr. Whitt explained forfeiture funds can be used for operational purposes. Mr. Whitt explained that some of that money will be used to cap the section in the back and build an entrance from the trail, so it serves as a trailhead. Mr. Whitt said the trailway council voted to demolish the depot building and not have the trailhead at that site. Mr. Whitt said once it is a training facility, there is minimal additional cost to maintain plus those that will be using such as the police and fire those departments will continue to do maintenance. Mr. Whitt explained the construction will not be funded by tax dollars, but forfeiture funding.

Manager Whitt stated that design is not increasing the size of the lot, plans are to keep what was already purchased. Mr. Whitt explained that the site was purchased for over a million dollars and the cost to clean it up would be much more. Mr. Whitt stated that it would be a net loss to sell the property. Mr. Whitt explained that the premise when buying the property many years ago was to

develop the property. However, not in the way Council is trying to develop it now. Mr. Whitt explained a corner of the site was determined to be contaminated. That area was remediated and capped. The site in front is fine and is utilized and the site has been maintained years before he arrived. Mr. Whitt explained thousands of tax dollars would go to clean up the site in a different fashion than capping if the site were to be sold. Mr. Whitt explained that the section in the back was remediated. Mr. Whitt said the Council is trying to do the most with the site.

Mr. Johnson asked for clarification if it will be a veteran's memorial.

Mr. Whitt answered yes; veteran's, police, and fire memorial.

Mr. Johnson said he is a veteran and we do not need another memorial. Mr. Johnson opined, "I would like a park. I don't need other city stuff."

Manager Whitt explained that it will be a multipurpose facility that will be built without taxpayer dollars. The site will be multi-use and can become a park to host multiple events. Mr. Whitt stated that the math does not support the idea that the city should sell it.

Bob Daar, 148 Arvida – said he has been living in Walled Lake close to 30 years. Mr. Daar said in regard to the property plan, times have changed. Mr. Daar stated that "no one wants a memorial, or police and fire training facility." Mr. Daar questioned if other communities have facilities that are underutilized. Mr. Daar questioned if the greenway drain has been investigated for contamination. Mr. Daar said he wants to know about the contamination.

Manager Whitt explained that there was remediation done prior to his employment. The city remediated it so it does not leach into the greenway drain, which is why we should control it and keep the property. This avoids spending hundreds of thousands of dollars to clean the property. Mr. Whitt stated that it is public knowledge, not a secret. Mr. Whitt stated that the city has protected the greenway drain. The city identified that there was contamination. Mr. Whitt said to remediate it, the toxins were closed in between the parcels.

Mr. Daar questioned if the information is publicly available. Mr. Daar asked multiple questions about the contamination and remediation. Mr. Daar opined if the contaminates are not removed, is it going to sit still for the next 20 or 30 years while the complex is over it. Mr. Daar explained capping the top does not do much except to keep people from coming in touch with it.

Council Member Ambrose explained that the DEQ made the recommendation on what needed to be done. Mr. Ambrose said that is why the farmer's market moved and the contaminated area was fenced off and capped.

City Manager Whitt acknowledged the concern regarding the greenway drain and stated the information for the site is available and has been available for years. Mr. Whitt explained the solution for site does not allow it to leach in. Mr. Whitt opined the selling of the property will not bring the revenue as suggested Mr. Whitt said the rumors of additional cost are those that are opposing the development, the maintenance of the site is not an issue.

Mr. Daar continued to question about what the contaminations are and what the remediation was.

Mr. Daar questioned about the public safety extension as a no-cost to the taxpayers. Mr. Daar said that if a full-time police or firefighter is maintaining it, the taxpayers are paying their salaries. Mr. Daar said we are all paying for the facility regardless of what is put there. Mr. Daar claimed that the City Manager stated it would be no-cost.

Mr. Daar questioned about the maintenance. Mr. Daar said if the contamination is capped, why not put the site to other use. Mr. Daar described different training facilities already in the surrounding area that police and fire can use. Mr. Daar said this proposal is a joke. Mr. Daar discussed regulating marijuana in the city. Mr. Daar said he sees a lot of people who benefit from it medically and other wise. Mr. Daar explained to use the forfeiture money for policing the marijuana.

Council Member Costanzo said he has done research on the DEQ website and recalls that the field is not listed on the environmental mapper of the state website. Mr. Costanzo said the barn is listed, but not the field in the level of the contaminates and we do need to investigate what we have and why it is not listed on the site.

Mindy Fernandes, legislative director for state representative Cathy Crawford – said if anyone is interested in more information or has questions regarding state government to please reach out. Ms. Fernandez said they provide tributes and letters of accommodation. Ms. Fernandez asks if there are any individuals in the community that have gone above and beyond, the office would provide signed letters of accommodation from Cathy Crawford, Jim Runestad, the Governor, and the Lieutenant Governor. Ms. Fernandez listed multiple resources that are available to the community for free.

Cathy Kubiak, Commerce Township resident – said she has watched this board and commented on the City Manager’s salary. Ms. Kubiak encouraged people to vote on November 5th.

Neal Wolfson, 565 Winwood Court – explained he met with Finance Director Barlass and he reviewed audited financial statements over the past ten years. Mr. Wolfson discussed annual taxes revenues and losses from 2010 to present. Mr. Wolfson explained all of this information is on the city website for review. Mr. Wolfson explained police forfeitures paid for the room this meeting is being held, this is the police training room.

Audience member approached the podium and said directly to the Mayor, “we’ve met before. I remember where I recognized you from. Do you happen to know Jerry Millen?”

Mayor Ackley said, “I do not even know who you are sir because you have not signed in or said your name.”

“I’ll leave my name and my address.”

¹ Clerk’s Note: Unknown audience participant signed Audience Participation public record with vulgar obscenities.

Mayor Ackley explained this is not a question and answer session this is a time for you to express what you wish.

He said "I don't feel comfortable with witnessing you walking up and entering the back of Jerry Millen's business during operating hours. What business did you have there that was a city matter?" He said "Well I got you on video so its pretty cool. Thank you, cell phones and cameras. So, you're saying you don't know Jerry Millen." He asked "Are you friends? Well since you do know him ask him why his little punk ass bitch posse just tried to confront me and that if they stop by my fucking house again, I got something waiting for him."

Manager Whitt said that was a recorded threat and deferred to Police Chief.

Mayor Ackley asked for order in the chambers.

City Manager Whitt said what that man did is not right, this was an obvious threat and it was recorded on live stream this evening.

Mr. Whitt said this kind of conduct had been occurring a lot lately. City Manager Whitt said he has been threatened with bodily harm and other people had been threatened with bodily harm.

Mr. Wolfson said Ms. Hall has been to the DDA meeting and Planning Commission meeting. Mr. Wolfson said Mr. Whitt spoke with her and provided all the information she asked for. Mr. Wolfson opined he does not know why people are afraid to speak with the city staff.

COUNCIL REPORT:

Mayor Pro Tem Owsinek said there is a trail event on November 13 at 10 am on the west side of the bridge a ribbon cutting ceremony.

Council Member Costanzo said he attended the railway council meeting last week and opined that the other two communities are committed to the project and are staying onboard until its completion.

Council Member Ambrose said this past weekend was a M-5 K inaugural run and Walled Lake was well represented. Mr. Ambrose said the DDA provided t-shirts for the Lake to Lake ride and they were well received.

CITY MANAGER REPORT:

1. Departmental / Divisional Statistical Reports

- a. Police**
- b. Fire**
- c. Finance**
 - Warrant**
- d. Code Enforcement**

**CM 10-3-19 TO RECEIVE AND FILE THE MONTHLY DEPARTMENTAL /
DIVISIONAL STATISTICAL REPORTS**

Motion by Owsinek, seconded by Lublin, UNANIMOUSLY CARRIED: To receive and file the monthly Departmental / Divisional Statistical Reports.

Discussion

Council Member Costanzo said the last codification of city ordinances were in 2010. He asked if someone wants to see current ordinances how they see the additional ordinances.

Manager Whitt explained there is a plan to update for a codification. Mr. Whitt said codification requires substantial money. Manager Whitt explained every ordinance passed by City Council stands as approved even without codification. Manager Whitt said the City Clerk is ready for codification as well. Mr. Whitt explained what is on the website is Municipal Code Corporation. Mr. Whitt explained in addition to the codification, the City Charter will be republished as part of the codification. Mr. Whitt said the City Clerk, Assistant City Manager and Deputy Clerk have all been to Lansing to witness firsthand what is on file with the Office of the Great Seal regarding the City of Walled Lake Charter. Mr. Whitt explained what is on file is a copy of the newspaper the charter was printed. City Manager Whitt explained that as part of the codification efforts that the City Clerk had been in contact with Municipal Code Corporation who hosts the online library of municipal city charters, city codes and ordinances.

Member Costanzo inquired about the Greenhouse work identified on page 62 of the council packet regarding the check disbursement report and McKenna Associates' billing in regards to the Greenhouse addition.

City Manager Whitt explained the Greenhouse is planning to expand its footprint and site plans are reviewed by McKenna. City Manager Whitt explained to Council Member Costanzo that the applicant pays for these reviews' fees.

Roll Call Vote

Ayes (6)	Lublin, Owsinek, Robertson, Ambrose, Costanzo, Ackley
Nays (0)	
Absent (1)	Loch
Abstention (0)	

Manager Whitt explained the yearly audit report is coming due and the Finance Director and city staff are working on closing the books.

City Manager Whitt explained there is possibility as he understood there may be a problem getting a quorum of Council for the regular scheduled meeting of November 4th. Manager Whitt explained the city's general election is the next day, November 5, 2019.

Mr. Whitt explained the auditors wish to provide the annual audit report in November to be able to file timely with the State. Mr. Whitt explained there is also a required Organizational Meeting the Monday after the city's general elections and that date happens to be November 11th, which is Veterans' Day. Mr. Whitt explained Council by resolution can reschedule the organizational meeting date.

Discussion was held about the meetings and City Charter requirements.

Mayor Ackley said she will be out of town November 13th forward and because the City Charter calls for the Monday after the election, that sometime during the week of the 11th should be considered not later in the month.

**CM 10-4-19 MOTION TO APPROVE RESOLUTION 2019-42 A
RESOLUTION RESCHEDULING THE
ORGANIZATIONAL COUNCIL MEETING OF MONDAY,
NOVEMBER 11, 2019 DUE TO OBSERVANCE OF
VETERANS DAY TO NOVEMBER 12, 2019 AT 8:00 P.M.
AND CANCELLATION OF THE NOVEMBER 4, 2019
REGULAR COUNCIL MEETING**

Motion by Owsinek, seconded by Lublin: UNANIMOUSLY CARRIED: To approve resolution 2019-42 a resolution rescheduling the Organizational Council Meeting of Monday, November 11, 2019 due to observance of Veterans' Day to November 12, 2019 at 8:00 p.m. and cancellation of the November 4, 2019 regular council meeting.

Roll Call Vote

Ayes (6)	Lublin, Owsinek, Robertson, Ambrose, Costanzo, Ackley
Nays (0)	
Absent (1)	Loch
Abstention (0)	

2. Report on Beautification of Downtown – Presentation
a. SEMCOG Grant
b. Downtown Storm Sewer Repair

Discussed later in the meeting.

3. Nomination of Chairman of the Beautification Committee

City Manager Whitt explained that a public nomination can be made for reflection in the minutes to nominate her to the position then resolve to appoint the individual.

Mayor Ackley explained Ms. Angela Ryan is responsible for most of the plantings around the memorial. Mayor Ackley explained she is the current chairman of the Beautification Committee and she would like to reactive the committee. Mayor Ackley made a nomination of Angela Ryan as chairman of beautification commission. Mayor Ackley explained applications are available for those who wish to participate.

**CM 10-5-19 MOTION TO RESOLVE AND DRAFT RESOLUTION
NUMBERED 2019-43 TO ACCEPT THE MAYOR'S
NOMINATION AND COUNCIL'S ACCEPTANCE OF ANGELA
RYAN AS THE CHAIRMAN OF THE BEAUTIFICATION
COMMITTEE**

Motion by Costanzo, seconded by Ambrose: UNANIMOUSLY CARRIED: To resolve and draft resolution numbered 2019-43 to accept the Mayor's nomination and Council's acceptance of the Angela Ryan as the Chairman of the Beautification Committee.

Roll Call Vote

Ayes (6)	Owsinek, Robertson, Ambrose, Costanzo, Lublin, Ackley
Nays (0)	
Absent (1)	Loch
Abstention (0)	

2. Report on Beautification of Downtown

City Manager Whitt explained the consultant engineer will be providing a presentation on the downtown beautification. Mr. Whitt explained this presentation was provided to the DDA at their last meeting.

Bradd Maki from Boss Engineering discussed the city is being active in pursuing grants for the downtown area for improvements. One grant the city received is the SEMCOG Green Infrastructure Grant. Mr. Maki said in 2017 the DDA and City Council authorized Boss to perform a storm sewer line study and also to look at the old deteriorating lines. Mr. Maki explained that the results showed 90% plus of the storm sewer pipes need replacement. Also, the storm sewer system capacities were noted to be very small. The downtown area was built with small pipes to begin with but as the area began to be built up away from the lake, the pipes were never upsized. Upon recommendation in 2017, Boss provided some assistance for funding on how the city can help pay for improvements. Mr. Maki explained that with the support from DDA and Council, Boss looked at 3 different grants. Mr. Maki said the first grant was a non-point source grant which included green scape work and improvements to the storm sewer system. Mr. Maki said the city applied two-years in row but was unable to obtain the grant. Mr. Maki said the second grant was the SEMCOG grant. Mr. Maki explained that this grant includes work on Mercer Beach such as installing a bioswale, playground and bench improvements, and LED lighting. Mr. Maki stated that we did obtain this grant that was estimated for \$127,000. Mr. Maki reviewed slides and explained the discharge pipes are not satisfactory. Mr. Maki explained

there is an 18-inch pipe that runs through the beach and there is a pipe under the parking lot area next to the beach. The pipe needs to be upgraded for better flow, picks up the area better, and drains the catch basin better. Mr. Maki said a lot of the work is along the roadway enhancing the area. Mr. Maki explained that the work needs to be done by next year in order to utilize the grant, so now is the time to think about what needs to be done. The project needs to be bid now to be done next year.

Member Costanzo asked if \$500,000 to \$600,000 includes the engineering services for design. Mr. Maki said no, that would have to be bid out.

Council Member Lublin clarified, the SEMCOG grant was \$50,000 and asked what other grants there are. Mr. Maki said there is another grant and McKenna Associates is working on that.

Member Costanzo asked if this will be a DDA project or city project.

Manager Whitt explained to Council Member Costanzo that the DDA is a component unit of the city; this project was given birth by the DDA. Mr. Whitt said there are a lot of projects all over the city are occurring to begin fixing items that have needed attention for some time. Mr. Whitt explained this particular project addresses the underground pipes. Mr. Whitt said this project begins to address the pipe in the middle of Mercer Beach. Mr. Whitt explained there will be a required easement.

Council Member Costanzo asked about the DDA fund balance.

Council Member Lublin explained to Council Member Costanzo that the DDA fund balance is \$1.9 million.

Council Member Ambrose explained this is why the DDA saved. There was video that showed the whole storm drain system. There were sink holes and a lot of issues.

City Manager Whitt said the DDA is in a position to make those calls, the DDA has voted on improvements and the beautification is necessary to make it look the way it should look. Manager Whitt explained the engineering costs will be reviewed, if Council is inclined, the design will be pursued, and costs gathered. Mr. Whitt asked Mr. Maki to provide an update on the Tri-A project. Mr. Whitt said the gentleman that was here this evening about his property, the property will be reviewed and made right.

Mr. Maki explained the Tri-A project is in its final stages for engineering. Mr. Maki said this project will go into the spring with surface work from here on out and continued restoration. Mr. Maki explained the underground work is all done. Mr. Maki explained there is settling that is taking place and those areas will be addressed when settling is complete.

Council Member Lublin said he was approached by residents asking for street sweeper action to help with cleaning the roads in the area. Mr. Maki said that is part of the final clean up.

Council Member Costanzo said there is still a speed limit sign that needs to be replaced. City Manager Whitt explained the Tri-A project has come in under budget. Those dollars should be utilized to fix some roads issues and the repairs can be done in sections. Mr. Whitt said this is not a solution to the road problems, but the money was committed there.

Mr. Maki explained the project is only at 70% completion and so far, only \$900,000 for total construction costs thus far which is under what Council approved. Mr. Maki said the area was videoed prior to the project commencing to note before and after.

Council Member Ambrose asked if Council has heard if the water pressure is better with the new lines.

Manager Whitt said the improvements have been made and the public safety issue in Tri-A has been addressed. Mr. Whitt deferred to Fire Chief Coomer.

Fire Chief Coomer explained the city holds an Insurance Risk Office (ISO) of 4. The scale is 1 to 9 with 9 being the most risk and 1 being the best. Chief Coomer explained the department just had their yearly review with results to be provided later this month.

CORRESPONDENCE

1. Letter from Michael W. Reeds, P.C. Attorneys at Law

Mayor Ackley requested correspondence to be read into the record. City Clerk Stuart read into record.

October 3, 2019

*Walled Lake City Council 1499 E. West Maple Rd.
Walled Lake MI, 48390
Attn. City Clerk*

Re: Candidate Dena Potter Residency Issues

Dear Council Members,

I am writing to express my concerns regarding the residency status of Dena Potter, a current candidate for the Walled Lake City Council. Apparently, Ms. Potter was, until about a year ago, a Commerce Township voter and a Commerce Township resident. I am told that Ms. Potter's house is technically within both Commerce Township and Walled Lake, and that she indicated she became a Walled Lake resident by electing to simply change her voter registration. Is there a specific reason why Ms. Potter is running for election in Walled Lake and not Commerce Township? At the very least, it seems to me that the voters would want to know the answer to this question.

Paying taxes does not qualify someone to run for office in the City. After all, many people own property in the City, and pay City taxes, but are not City residents, and therefore do not vote here. Nor do they run for election here. Furthermore, it is my understanding that where a person sleeps is only one factor among several, to be considered in determining whether a bona fide change of legal residence has actually occurred.

I believe we need to elect individuals who will put Walled Lake first in their decision making. It is my belief that the major issues facing the City are of a financial nature, and I am not aware of any other specific issues facing the City of Walled Lake which are of paramount importance to the voters. I do believe the financial well-being of the City is important to most, if not all of those doing business here.

The Walled Lake City Charter seeks to ensure that our City's elected officials will always put the City of Walled Lake first, by requiring the elected officials to be bona fide residents of the City for more than a year prior to the election. Such reasoning suggests a desire to make sure no one would subordinate the best interests of the City to another municipality or would run for office simply because they have an axe to grind.

Yours truly.

*Michael W. Reeds
1038 E. West Maple
Walled Lake, MI 48930*

ATTORNEY'S REPORT

1. Update Regarding Litigation Matters

City Attorney Vanerian said the attorney's themselves who are representing the plaintiff filed a defamation claim against the City Manager, the case was found to be a legally meritless case by the court's and concluded that all claims asserted against the City and City Manager in this action were not legally actionable and appropriately dismissed this case in its entirety.

City Attorney Vanerian explained the plaintiff's attorney, Jones and Yatooma who represent COEUS, who is an applicant for a medical marijuana provisioning center. Attorney Vanerian opined the applicant was not happy with their application denial and in response filed a lawsuit against the city. The plaintiff named one of the local businesses here, the Green House, in the lawsuit as well suggested there was advantage given to the Green House in licensing. The court's ruled an opinion on the motion filed by the Green House attorney, the civil conspiracy claim was legally defective and not actionable as plead. The court found this to be fatal to conspiracy claim. The plaintiff in response filed an amended complaint, the city has filed a supplemental brief on the amended complaint. The city is still waiting for ruling on its motion that was filed months ago. The city has filed the appropriate supplemental briefs to attack the

complaint and anticipating a ruling in near future. The city is going forward with discovery taking of depositions and so forth.

Attorney Vanerian explained there is another lawsuit filed by a local resident, attacking the initiatory ordinance on the November 5, 2019 ballot. The case does not ask for monetary award, nor has any claims that the city or anybody did anything wrong. The plaintiff is stating the city is in the process of creating an ordinance and process for adopting a regulatory ordinance for the new recreational facilities.

Council Member Ambrose asked what interpretation could the court give?

Attorney Vanerian explained the city is in the process of adopting its own regulatory ordinance. The court will have to decide what is the legal answer to that. The city took action to create an ordinance. The action will not take the proposal off the ballot, the ballots have already been sent. People will have an option to vote on it but regardless the court could find it invalid no matter what the vote.

Attorney Vanerian said Proposal 1 requires the city to approve 8 adult use marihuana facilities, if the courts uphold it that is what the city will have to abide by. The ordinance tonight, allows for no additional recreational facilities other than to those who are licensed for medical marihuana.

Mayor Ackley asked if the courts found the proposal to be valid, the courts would dictate what the City has? Mayor Ackley said that could be up to 11 and the city would have no authority over distance or location requirements.

City Manager Whitt said there have been two lawsuits of civil conspiracy filed against the city and the city has proved twice now, those complaints are bogus. The cases were tossed out by the courts and found to be frivolous.

UNFINISHED BUSINESS:

1. Second Reading C-347-19 Recreational Adult Marijuana Establishment Ordinance

City Attorney Vanerian said the changes were made to operational hours, and legal revisions were made changing misdemeanor to civil infraction. Attorney Vanerian explained there is nothing of substance that was changed. Mr. Vanerian said this is a new evolving area of law, there is difficulty because there are a lot of legal issues and different interpretations. Mr. Vanerian explained the interpretations are new and we have to wait until the courts resolve on a case by case basis. There may be a need in the future to have additional amendments to what the city has adopted. Mr. Vanerian explained there is a lot of inherent potential for litigation, it doesn't necessarily mean anyone has done anything wrong. It is a new evolving law. Mr. Vanerian said the answers to questions are provided by court cases. Mr. Vanerian said between State licensing and local licensing regulations, conflicts arise, and they need to be worked through.

CM 10-6-19 MOTION TO APPROVE SECOND READING C-347-19 AN ORDINANCE TO AMEND CHAPTER 18 "BUSINESSES", OF THE CITY OF WALLED LAKE CODE OF ORDINANCES BY ADDING A NEW ARTICLE XII "RECREATIONAL MARIHUANA ESTABLISHMENTS" TO REGULATE AND REQUIRE LOCAL LICENSING OF RECREATIONAL MARIHUANA BUSINESSES AND ESTABLISHMENTS WITHIN THE CITY AS PROVIDED BY STATE LAW

Motion by Owsinek, seconded by Robertson, CARRIED: To approve second reading c-347-19 an ordinance to amend Chapter 18 "Businesses", of the City of Walled Lake Code of Ordinances by adding a new Article XII "Recreational Marihuana Establishments" to regulate and require local licensing of recreational marihuana businesses and establishments within the city as provided by state law.

Discussion

Council Member Costanzo said page 85, the language of the recreational license that these facilities be at the same locations as medicinal licenses can be construed by some that the city is designing ordinances to benefit specific business and create the appearance of impropriety. Member Costanzo opined this ordinance as written creates a government mandated monopoly. Member Costanzo said the city is still actively engaged in this lawsuit, nobody has ruled on it, disposed of the course or otherwise. Member Costanzo said if the city loses this lawsuit, the city can be making the same mistake with this ordinance as proposed. Member Costanzo said in his opinion the prudent thing to do is wait until the court has ruled. Any medicinal facilities who want to apply for recreational can still apply but not mandating that they get it automatically because they have a medicinal license and to treat everybody equally in the application process.

Council Member Costanzo made motion to amend ordinance striking out page 85, Section 18-403 paragraph (b). Motion died for lack of support.

Council Member Costanzo said Section 18-402 (b) page 84 should include language the city reserves right to increase operating fee up to 10% each year.

Mayor Ackley explained to Council Member Costanzo that this issue was discussed last meeting and explained by the City Attorney that the State sets the amount not the city.

City Attorney Vanerian agreed and explained again to Council Member Costanzo that the local fees are set by State law.

Council Member Costanzo said page 90, Section 18.407 does not distinguish days but only the times and moved to amend for Sunday hours for 11 am to 9 pm instead of opening at 9 am running similar to serving hours for alcohol within the city. Motion failed for lack of support.

Council Member Ambrose explained his business has a Class C license and there is automatically a noon start for hours to serving however, businesses can obtain additional State licenses for a fee to start serving at 8 am.

Council Member Lublin said in response to Member Costanzo, section 18-403 (b) including this language limits the total to 3 recreational licenses. Member Lublin said if city determines to allow more an amendment can be made to the ordinance at a later date.

Roll Call Vote

Ayes (5)	Robertson, Ambrose, Lublin, Owsinek, Ackley
Nays (1)	Costanzo
Absent (1)	Loch
Abstention (0)	

NEW BUSINESS:

1. Proposed Resolution 2019-44 Employment Agreement Heather Kolke

Police Chief Shakinias explained the addition of Captain Kolke is a true asset to the department and to lose her to another department would be tough.

Manager Whitt explained there is no union involved and the employee works for the Chief. Mr. Whitt explained the employment agreement is consistent with the other employee agreements. Mr. Whitt explained in the past, the unions drove the benefits with the contracts and this contract is not unusual in Walled Lake. Manager Whitt explained the salary is consist with the neighboring communities do and he recommended approving the contract.

Council Member Ambrose explained in conversations he had with a long-time officer of the department, she has the respect from the entire department, doing a great job and complimented they would take a bullet for her.

City Manager Whitt said Captain Kolke has support from the leadership of surrounding communities as well.

CM 10-7-19 MOTION TO APPROVE RESOLUTION 2019-44 A RESOLUTION APPROVING AN EMPLOYMENT AGREEMENT WITH HEATHER KOLKE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME

Motion by Owsinek, seconded by Lublin, UNANIMOUSLY CARRIED: To approve resolution 2019-44 a resolution approving an employment agreement with Heather Kolke; authorizing the City Manager to execute the same.

Roll Call Vote

Ayes (6)	Ambrose, Costanzo, Lublin, Owsinek, Robertson, Ackley
Nays (0)	
Absent (1)	Loch
Abstention (0)	

2. Proposed Resolution 2019-45 Auction Bids and Award

Police Chief Shakinas explained the auction was held of surplus vehicles of the police department and DPW. Chief Shakinas said bids were due by October 8, 2019. Chief Shakinas asked for Council approval.

CM 10-8-19 MOTION TO APPROVE RESOLUTION 2019-45 A RESOLUTION FOR ACCEPTANCE OF BIDS AND DETERMINATION OF BID AWARD APPROVED BY CITY COUNCIL FOR THE 2019 AUTO AUCTION AND AUTHORIZE THE SALE OF SAID ITEMS

Motion by Lublin, seconded by Ambrose, UNANIMOUSLY CARRIED: To approve resolution 2019-45 a resolution for acceptance of bids and determination of bid award approved by City Council for the 2019 Auto Auction and authorize the sale of said items.

Discussion

Mayor Ackley said in conversations she understands the bid for the 2003 Sterling Dump Truck was lower than anticipated. Chief Shakinas explained the DPW Coordinator expressed the same and possibly try to utilize as a trade in but has not heard back from them.

Council Member Costanzo moved to remove item 5 the 2003 Sterling Dump Truck from resolution to possibly rebid and try to sell again. Motion failed due to lack of support.

Roll Call Vote

Ayes (6)	Costanzo, Lublin, Owsinek, Robertson, Ambrose, Ackley
Nays (0)	
Absent (1)	Loch
Abstention (0)	

COUNCIL COMMENTS:

Council Member Lublin asked for voters to vote no on Proposal 1.

Council Member Costanzo said he wants the minutes to show his opposition to action approving second reading C-347-19. Member Costanzo said for the following reasons; one this can be construed by someone that the city has designed the ordinance to benefit certain businesses, two

creates the appearance of impropriety in his opinion, three the city is currently engaged in a lawsuit involving marijuana applications, four it would be prudent to wait rather than pushing the ordinance through as written, five creates small government mandated monopoly that will control the pricing of medicinal and recreational marijuana and in his opinion it creates an unfair playing field for the applicants.

Council Member Ambrose said the conversation on social media is out of control. If someone has issues, please bring them to Council.

Mayor Pro Tem Owsinek said for residents to get out and vote, make their voices heard.

MAYOR'S REPORT:

Mayor Ackley said she hopes there is a no vote for Proposal 1, there is a lot of confusion. Voters need to do their homework and understand the proposal. Mayor Ackley encouraged everyone to get out and vote.

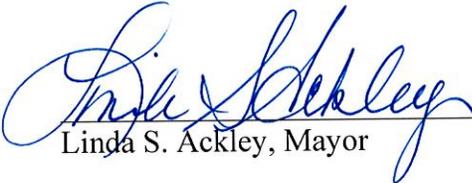
ADJOURNMENT

Meeting adjourned at 10:08 p.m.



Jennifer A. Stuart, City Clerk

Approved
11-12-19



Linda S. Ackley, Mayor