

**MEETING MINUTES  
CITY COUNCIL STUDY SESSION MEETING  
CITY OF FARMINGTON HILLS  
APRIL 21, 2014 – 6:00PM  
CITY HALL – COMMUNITY ROOM**

The City Council study session meeting was called to order by Mayor Brickner at 6:05p.m.

Council Members Present: Brickner, Bridges, Bruce, Knol, Lerner, Massey and Steckloff

Council Members Absent: None

Others Present: City Manager Brock, City Clerk Smith, Assistant City Manager Boyer, Director Gardiner and Attorney Joppich

**DISCUSSION ON MEDICAL MARIJUANA:**

City Attorney Joppich provided City Council with an update on the status of several case laws City Council felt could have an impact on the issue of medical marijuana and how they would move forward as a City on this issue. He noted that City Council to this point had focused on land uses and how to handle those requests; and a lot of this was open to interpretation under State law.

He stated that City Council had approved a resolution deferring reviews and decisions regarding medical marijuana land uses and extended that deferral on several occasions until the courts made some rulings on the court cases mentioned. Attorney Joppich pointed out that in the case of *Ter Beek vs City of Wyoming*, where the City of Wyoming approved a zoning ordinance provision stating that any use of land that is in violation of federal law is not a permitted land use in the City, the Supreme Court ruled that the Michigan Medical Marijuana Act (MMA) was not preempted by the Federal Controlled Substances Act, which makes the possession of medical marijuana a federal offense; and that this type of City zoning ordinance was in direct conflict with the MMA, which permits qualified medical marijuana patients to grow and use marijuana for medical purposes in their home. He mentioned that City Council had also considered such a zoning ordinance, but this would no longer be advisable based on this court ruling.

Attorney Joppich stated that City Council indicated that this issue is before City Council now to determine how they might want to move forward. He suggested that City Council consider an ordinance that would include affirmative language to permit the use rather than using language indicating that the City would not prosecute. Attorney Joppich pointed out that City Council was provided a copy of the draft ordinance they originally reviewed in 2011; and if they wanted to proceed with an ordinance to permit this use, the draft ordinance would have to be revised due to the court rulings. Any revised ordinance would also be required to go back to the Planning Commission first for review, public input and recommendation and then it would come to City Council for consideration.

Mayor Brickner stated that he felt the draft ordinance was a good start but agreed it needed some modifications as mentioned by Attorney Joppich. He stated that one concern of City Council was allowing for grow operations in rented homes or warehouses.

Attorney Joppich reviewed the draft ordinance, particularly Section 34-61 as it related to requirements for medical marijuana caregivers.

Discussion was held on use as a home occupation and those requirements. Attorney Joppich stated that there is a section in the current Zoning Ordinance that regulates home occupations and that section indicates that the person must live in the home and that the home occupation is an accessory use. He

clarified that the person living in the home and operating the home occupation could be a renter and would not have to be the homeowner.

Councilmember Massey stated that he could not see how someone operating as a caregiver and growing medical marijuana in their home could meet the square footage requirements for a home occupation. He was also concerned with using more affirmative language to “permit” the use and preferred to leave the language vague.

Attorney Joppich stated that as with any other home occupation, the person would have the opportunity to appear before the Zoning Board of Appeals for a variance to any of the requirements. He suggested using the affirmative language, but keeping existing language in the draft ordinance that indicates the ordinance should not be construed or interpreted as endorsing, aiding, or abetting violations of federal or state laws. Councilmember Massey concurred with that suggestion.

Councilmember Lerner questioned if the City should be further regulating medical marijuana when there is already State law and the City has existing ordinances to regulate home occupations through zoning and building and electrical codes.

Attorney Joppich explained that if someone wanted to install equipment with excessive lighting, etc., this would fall under a different use category other than a home occupation and other regulations might apply; but without any type of ordinance to regulate this use, the City may never know about the operations or those unusual circumstances.

Discussion was held on the provision to allow for only one caregiver per zoning lot. Attorney Joppich stated that the court ruling in the *Ter Beek* case does not attempt to tell communities how to regulate the use of medical marijuana and only indicates that the City can’t prohibit it. He stated that the City has the right to reasonably regulate the use.

Mr. Lerner stated that he did not particularly agree with passing an ordinance that was contrary to State Law.

Councilmember Bridges inquired if Attorney Joppich felt the court rulings cleared up the land use issues. Attorney Joppich responded that he did not feel the land use issues were fully addressed and that there are still open issues and questions that have yet to be answered by the courts, some of which relate to how far a city can go to regulate the use.

Councilmember Knol felt that the city needs to provide for regulations; and that it is different than other home occupations in that this type of use could increase neighborhood traffic and that the homes could be targets for theft. She expressed concern with maintaining the conditions of the home and providing for the safety of the residents. She also noted that there is a Bill dealing with dispensaries that has passed the House.

Attorney Joppich stated that if that law passes, the City would most likely want to review their ordinance again as it could allow for further local regulations.

Mayor Pro-Tem Bruce stated that he does agree with the regulations on purchasing medical marijuana; but because of existing laws, people are forced to grow it in their homes. For that reason, he feels that the City needs to regulate the use in order to protect the neighborhoods.

Councilmember Lerner stated that since other members of Council wanted some type of ordinance to regulate the use, he would suggest allowing for the use with minimal regulations in place to maintain the safety and character of the neighborhoods.

It was the consensus of City Council to move forward with the draft ordinance that will be revised accordingly in light of the court rulings and to send that to the Planning Commission for review and recommendation to City Council.

City Manager Brock explained that a resolution to extend the deferral on land uses is on the regular agenda this evening in order to allow for the draft ordinance to go through the proper review and come back to City Council for consideration.

Planning and Community Development Director Gardiner pointed out that the Planning Commission recommended denial of the draft ordinance to City Council back in 2011, so he will maintain the ordinance in its original form as presented to the Planning Commission noting any suggested changes and recommendations of the Planning Commission when this is brought back to City Council.

#### **DISCUSSION ON SIGNS:**

City Manager Brock stated that there has been some discussion with regard to the size of signs and a request to the City to allow for larger signs in certain circumstances. He stated that Director Gardiner will share an idea that some other communities have implemented.

Director Gardiner stated that the issue tonight is not as much about the size of the signs as it is about the duration of some of the "For Lease" signs that have been installed throughout the city. He stated that there have been some complaints about "For Lease" signs that have been installed in areas where there are no vacancies, and when you call the number it directs the person to other vacant parcels that may not even be in the city. He explained that communities in other states have required registration of temporary signs and at the time that they apply for the registration, they have to prove there are vacancies at that location and they are only valid for a certain time period.

Mayor Pro-Tem Bruce stated that some signs interfere with visibility due to their placement. Mr. Gardiner stated that they do follow up on those issues now, but that is another area that could be reviewed if a registration was required.

Councilmember Lerner shared the concerns, but also noted that there are many vacant parcels along Orchard Lake Road and that those businesses should have the right to advertise.

Mayor Brickner inquired if there were regulations now in the ordinance with regard to duration that a temporary sign could be installed. Director Gardiner stated that he did not know of any regulations with regard to duration.

Councilmember Massey liked the idea of a registration requirement, but inquired if that would be a burden on staff. Director Gardiner stated that it would become a matter of priority for staff; but if that was Council's direction, they would implement the registration.

City Manager Brock felt that it could be more difficult to manage at first, but once the registration was in place it would become less of an issue.

Dr. Massey felt that the registration requirement was worth pursuing and asked for an outline of how that might work to come back to City Council for review.

Dan Blugerman, Thomas A. Duke Company-Commercial & Investment Realtors, pointed out that the current Farmington Hills Ordinance only allows for 12 square foot real estate signs and does not take into account the visibility of signs from I-696 or other expressway areas. He stated that he was denied a sign permit due to the current size limitations although he was requesting to install the same size sign as an existing commercial sign and in the same location. He requested that the City review the current sign ordinance as it relates to size of signs for real estate and what might be more suitable for viewing from highways and at highway speeds.

Mayor Brickner inquired if Council desired to review a possible increase in size for real estate signs.

Councilmember Knol stated that she is willing to review the requirements as they relate to highway and/or commercial areas.

Discussion was held on whether the current ordinance requirements were being enforced.

Director Gardiner stated that they have been notified of several signs that do not meet ordinance requirements; and they continue to receive requests from the business community to increase the allowed size to 16 square feet.

Mayor Pro-tem Bruce suggested first gently enforcing the current ordinance with regard to size so that Mr. Duke is not being forced to compete with others when he is trying to abide by ordinance requirements.

Councilmember Knol commented that the City is competing with other communities for space and she feels that it is worth reviewing an increase in size along the highway areas.

Councilmember Massey stated that he was willing to review the size of signs along the highway, and stated that there should be equitable enforcement of the current ordinance.

It was the consensus of City Council to review the ordinance as it pertains to the size of signs along the freeway areas of I-696, I-275 and M5; and to equitably enforce the current ordinance standards.

**FOLLOW UP REVIEW OF CITY COUNCIL'S RULES AND PROCEDURES:**

Mayor Brickner commented that the Council reviewed their own rules and procedures at a previous study session and all of those comments have been incorporated into the proposed revised document. He noted that the City Attorney has also provided to Council an opinion on closed session meeting minutes. He stated that the revised document is on the regular agenda this evening for consideration.

City Council concurred with the proposed revisions and moving forward with consideration of the revised document at the regular meeting.

**ADJOURNMENT:**

MOTION by Massey, support by Bruce to adjourn the study session meeting at 7:25pm

MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,



Pamela B. Smith, City Clerk