



MACOMB TOWNSHIP *Michigan*

MACOMB TOWNSHIP BOARD OF TRUSTEES
MEETING MINUTES
WEDNESDAY, MAY 26, 2021

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB MI 48042

Call Meeting to Order

Meeting was called to order by Supervisor Viviano at 6:30 p.m.

Pledge of Allegiance to the Flag of the United States

Pledge of Allegiance was recited by all in attendance.

1. Roll Call

Clerk POZZI called the roll:

Present: Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Absent:

2. Approval of Agenda Items (with any corrections)

MOTION by Leon Drolet seconded by Nancy J. Nevers to approve the agenda as presented.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

3. Approval of Bills

MOTION by Charles Oliver seconded by Leon Drolet to approve the bills as presented.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

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Abstain - None

THE MOTION Passed.

4. Approval of Previous Meeting Minutes from May 12, 2021 and Closed Session Meeting Minutes from May 12, 2021

MOTION by Kristi Pozzi seconded by Frank A. Cusumano Jr. to approve meeting minutes from May 12, 2021 and Closed Session Meeting Minutes from May 12, 2021 as amended with the following correction to the May 12, 2021 Meeting Minutes: Item 24, Part Time Wage Assessment - MOTION by Kristi Pozzi seconded by Leon Drolet to approve the Part Time wage scale proposal for Facilities and Grounds staff members to \$12.00 - ~~\$17.00~~ \$15.00 per hour.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

PUBLIC COMMENTS, AGENDA ITEMS ONLY - (3 MINUTE TIME LIMIT)

There were no public comments.

CONSENT AGENDA ITEMS:

5. Water and Sewer Department
 - a. Easement Encroachment Agreement; Lot 66, Fox Run Subdivision # 2, Parcel No. 20-08-32-178-005
 - b. Purchase Requisition Request; Ferguson Waterworks (Meters, Radios & Gaskets). \$51,834.62
6. Engineering Department
 - a. Request to Approve Easement Agreement: 2021 Pathway Gap Closure Program (Parcel No. 08-08-101-044)

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7. Human Resources Department

- a. Request to Approve Family & Medical Leave of Absence - EE # 1622

8. Clerk's Office

- a. Request to Approve Michigan Townships Association 2021-2022 Dues (\$7,253.26)

MOTION by Leon Drolet seconded by Kristi Pozzi to approve the Consent Agenda items with the exception of MTA Legal Defense Fund dues in the amount of \$211.26.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

MOTION by Leon Drolet seconded by Peter J. Lucido III to postpone MTA Legal Defense Fund dues in the amount of \$211.26 until next meeting.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

PUBLIC HEARING:

9. Public Hearing for the 2021/2022 Fiscal Year Budget

Supervisor Viviano opened the Public Hearing at 6:47 PM and closed Public Hearing at 6:49 PM. Finance Director Stacy Smith gave an overview of the proposed budget.

Speakers: Ben Koprin.

NEW BUSINESS:

ENGINEERING DEPARTMENT:

10. Request Permission to Execute Revised Cost Sharing Agreement for Design and Construction Costs with the Macomb County Department of Roads for the 25 Mile Road/Garfield/Romeo Plank Road Roundabout (\$1,309,000.00)

MOTION by Leon Drolet seconded by Charles Oliver to Authorize the Supervisor to Execute Revised Cost Sharing Agreement for Design and Construction Costs with the Macomb County Department of Roads for the 25 Mile Road/Garfield/Romeo Plank Road Roundabout (\$1,309,000.00).

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

PLANNING AND ZONING DEPARTMENT:

11. Amend the Township of Macomb Code of Ordinances, Chapter 12, Section 12-304, Medical Marihuana

AN ORDINANCE TO AMEND THE TOWNSHIP OF MACOMB CODE OF ORDINANCES, CHAPTER 12, SECTION 12-304, MEDICAL MARIHUANA, TO PROVIDE FOR THE PERMITTED GROWING, PROCESSING, HANDLING, AND USE OF MEDICAL MARIHUANA CONSISTENT WITH MICHIGAN MEDICAL MARIHUANA ACT, INITIATED LAW 1 OF 2008, AND CONSISTENT WITH RECENTLY ADOPTED ZONING REGULATIONS REGARDING CAREGIVERS, TO PROVIDE FOR REPEALER, SEVERABILITY AND EFFECTIVE DATE.

**TOWNSHIP OF MACOMB
MACOMB COUNTY, MICHIGAN
ORDINANCE NO. 285**

THE TOWNSHIP OF MACOMB ORDAINS:

Section 1. The Code of Ordinances for Macomb Township, Chapter 12, Section 12-304, Medical Marihuana, is hereby amended to provide as follows:

Sec. 12-304 – Medical Marihuana.

- (a) Individuals who are "qualifying patients" or "primary caregivers" as those terms are used in the Michigan Medical Marihuana Act ("Act") shall comply with the requirements set forth in the Act and the requirements set forth herein.
- (b) The term "enclosed, locked facility" means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient or a person designated through the state registration process as the primary caregiver for the registered qualifying patient or patients for whom the marijuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:
 - (1) The vehicle is being used temporarily to transport living marihuana plants from one location to another with the intent to permanently retain those plants at the second location.
 - (2) An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.
- (c) A person who has been issued and possesses a lawful registry identification card as a qualifying patient as set forth in the Act shall comply with the following requirements:
 - (1) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty

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for the medical use of marihuana in accordance with state law, provided that the qualifying patient possesses an amount of marihuana that does not exceed 2.5 ounces of usable marihuana, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, twelve (12) marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed and shall not be included in this amount. The privilege from arrest under this subsection applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient.

- (2) A qualifying patient may grow and process medical marihuana in compliance with the Act in one (1) enclosed, locked facility within or upon an owner-occupied, detached single-family residential dwelling/premises where the qualifying patient lives and which is the qualifying patient's residence pursuant to Michigan law, or in another location specifically permitted by law or ordinance, so that growing and processing does not occur in multiple locations.
- (3) Storage of medical marihuana by a qualifying patient shall only occur within one (1) enclosed, locked facility at the primary residence of the qualifying patient or in another location specifically permitted by law or ordinance so that storage does not occur in multiple locations.
- (4) No person other than the qualifying patient shall be engaged or involved in the growing, processing, or handling of medical marihuana, except as permitted by law or ordinance for primary caregivers.
- (5) Use of the qualifying patient's residential dwelling for medical marihuana related purposes shall be clearly incidental and subordinate to its use for single-family residential purposes. Not more than twenty-five percent (25%) of the gross finished floor area of the dwelling or one hundred square feet (100') of floor area of the dwelling, whichever is less, shall be used for the growing, processing, and handling of medical marihuana. Any modifications to the dwelling made for the purpose of cultivating medical marihuana shall comply with all applicable building, electrical, mechanical, and fire safety code requirements, including all requisite permit applications and related inspections. No part of an accessory building, detached garage, pole barn, or similar building or structure shall be used for the growing, processing, or distribution of medical marihuana unless such building or structure has been inspected and approved for the building, electrical, mechanical, and fire safety requirements of such use and fits the definition of an enclosed, locked facility.

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- (6) A qualifying patient may possess on his or her person and under the qualifying patient's exclusive control an amount of medical marihuana deemed medically necessary to alleviate the condition that gave rise to the qualifying patient's registration with the state.
 - (7) Should a qualifying patient wish to dispose of any unused medical marihuana, any incidental amount of seeds, stalks, and unusable roots, the material shall be removed by a commercial drug disposal carrier registered with the United States Drug Enforcement Administration and/or the state for proper disposal in a manner prescribed by law and regulation. Under no circumstance shall a qualifying patient dispose of any unused medical marihuana, or any incidental amount of seeds, stalks, and unusable roots, through a regular garbage receptacle, public waste retrieval services, or by burning.
 - (8) There shall be no visible change to the outside appearance of the qualifying patient's residential property or other visible evidence of the conduct of the medical marihuana operation occurring on the property.
 - (9) No marihuana, marihuana plants, marihuana paraphernalia, or plant growing apparatus shall be visible from the exterior of the dwelling.
 - (10) No equipment or process shall be used in growing, processing, or handling medical marihuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses at or beyond the property line of the qualifying patient's property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television, or similar receiver off the premises or causes fluctuation of line voltage off the premises.
 - (11) The growing, processing, distribution, sale, and handling of medical marihuana shall comply at all times with the Act and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.
- (d) A person who has been issued and possesses a lawful registry identification card as a primary caregiver as set forth in the Act shall comply with the following requirements:
- (1) A primary caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty for assisting a qualifying patient to whom he or she is connected through the state's registration process with the medical use of

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marihuana in accordance with state law. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. This subsection applies only if the primary caregiver possesses an amount of marihuana that does not exceed:

- a. Two and one-half (2.5) ounces of usable marihuana for each qualifying patient to whom he or she is connected through the state's registration process; and
 - b. For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, twelve (12) marihuana plants kept in an enclosed, locked facility; and
 - c. Any incidental amount of seeds, stalks, and unusable roots.
- (2) A primary caregiver may grow and process medical marihuana in compliance with the Act in one (1) enclosed, locked facility in a location specifically permitted by law or ordinance, and is specifically prohibited in the Township's Residential and Town Center Zoning Districts.
- (3) No person other than the primary caregiver shall be engaged or involved in the growing, processing, dispensing, delivery, or handling of marihuana, except to the extent that the primary caregiver lawfully transfers medical marihuana to a qualifying patient to whom the primary caregiver is linked through the state registration system.
- (4) No qualifying patient shall visit, come to, or be present at the primary caregiver's property to purchase, smoke, consume, obtain, or receive possession of any marihuana. Rather, the primary caregiver must personally deliver the marihuana to his/her qualifying patient. No person may deliver medical marihuana to a qualifying patient other than the primary caregiver linked through the state registry system to that qualifying patient.
- (5) No marihuana, marihuana plants, marihuana paraphernalia, or plant growing apparatus shall be visible from the exterior of the location from where the caregiver operates.
- (6) No equipment or process shall be used in growing, processing, or handling medical marihuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses at or beyond the property line of the primary caregiver's property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any

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radio, television, or similar receiver off the premises or causes fluctuation of line voltage off the premises.

- (7) The growing, processing, distribution, sale, and handling of medical marihuana shall comply at all times with the Act and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.
- (8) All medical marihuana shall be contained within the primary caregiver's enclosed, locked facility, except when being lawfully delivered by the primary caregiver to a qualifying patient off-site or being used by the primary caregiver as a qualifying patient. Manufacturing and storage of medical marihuana shall only be allowed inside one (1) enclosed, locked facility at any given time so that manufacturing and storage does not occur in multiple locations.
- (9) No on-site consumption or smoking of marihuana is allowed on a primary caregiver's property, except for any medical marihuana consumption by the primary caregiver himself/herself if he/she is a qualifying patient and in full compliance with the Act.
- (10) No sign in the form of a device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying a particular property as being associated with the use or cultivation of medical marihuana or marihuana in general shall be visible from any location outside of the property.
- (11) Under no circumstances shall any third parties have access to the enclosed, locked facility where medical marihuana is being manufactured and/or stored.
- (12) It shall be a violation of this section for any person to participate as a primary caregiver in a jointly operated facility where primary caregivers jointly share building space which is used in common to dispense medical marihuana to qualifying patients or assist qualifying patients with the medical use of marihuana. Use "in common," as that phrase is used in this subsection, shall include a shared or common reception area or shared or common customer service area.
- (13) Medical marihuana dispensaries and cooperatives are prohibited.
- (14) Should a primary caregiver wish to dispose of any unused medical marihuana, or any incidental amount of seeds, stalks, and unusable roots, the material shall be removed by a commercial drug disposal carrier registered with the United States Drug Enforcement Administration and/or the state for proper disposal in a manner

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prescribed by law and regulation. Under no circumstance shall a primary caregiver dispose of any unused medical marijuana, or any incidental amount of seeds, stalks, and unusable roots, through a regular garbage receptacle, public waste retrieval services, or by burning.

- (e) This section shall not permit any person to do any of the following:
 - (1) Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.
 - (2) Possess marijuana, or otherwise engage in the medical use of marijuana:
 - a. In a school bus;
 - b. On the grounds of any preschool or primary or secondary school; or
 - c. In any correctional facility.
 - (3) Smoke marijuana:
 - a. On any form of public transportation; or
 - b. In any public place.
 - (4) vehicle, aircraft, or motorboat while under the influence of marijuana.
 - (5) Use marijuana if that person does not have a serious or debilitating medical condition.
- (f) There shall be a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana in accordance with the Act and this section if the qualifying patient or primary caregiver:
 - (1) Is in possession of a registry identification card; and
 - (2) Is in possession of an amount of marijuana that does not exceed the amount allowed under the Act or this section. The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this section.
- (g) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be a misdemeanor punishable by a fine of Five Hundred and 00/100 Dollars (\$500.00), which shall be in addition to any other penalties that may apply for making a false statement or for the use of

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marihuana other than use undertaken pursuant to this section or state law.

- (h) No person shall transport or possess usable marihuana as defined in the Act in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the useable marihuana is either:
- (1) Enclosed in a case that is carried in the trunk of the vehicle; or
 - (2) Enclosed in a case that is not readily accessible from the interior of the vehicle in vehicles which do not have a trunk.

A person who violates subsection (h) is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than Five Hundred and 00/100 Dollars (\$500.00), or both.

Section 2. Repealer. All ordinances or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. Severability. This Ordinance is declared to be severable. If any part, section, subsection, provision, sentence, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is declared that the remainder shall not be affected thereby.

Section 4. Effective Date. This amendment to the Macomb Township Code of Ordinances shall become effective 30 days after its publication.

MOTION by Charles Oliver seconded by Frank A. Cusumano Jr. to amend the Township of Macomb Code of Ordinances, Chapter 12, Section 12-304, Medical Marihuana, to provide for the permitted growing, processing, handling and use of medical marihuana consistent with Michigan Medical Marihuana Act, initiated law 1 of 2008, and consistent with recently adopted zoning regulations regarding caregivers, to provide for repealer, severability and effective date.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

LEGAL COUNSEL:

12. Request to Approve Amended Consent Judgement; Located at 25 Mile Road and Broughton Road; Permanent Parcels 08-03-300-008, 08-10-100-019, 08-10-100-020, and a portion of 08-09-200-018

MOTION by Leon Drolet seconded by Kristi Pozzi to Approve Amended Consent

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Judgement; Located at 25 Mile Road and Broughton Road; Permanent Parcel 08-03-300-008.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

MOTION by Kristi Pozzi seconded by Charles Oliver to Approve Amended Settlement Agreement; Located at 25 Mile Road and Broughton Road; Permanent Parcels 08-10-100-019, 08-10-100-020 and a portion of 08-09-200-018.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

PUBLIC COMMENTS, NON-AGENDA ITEMS ONLY - (3 MINUTE TIME LIMIT)

Resident Ben Koprin spoke.

BOARD COMMENTS:

Trustees Comments

Trustees Oliver and Nevers thanked all involved in drafting the proposed 2021-2022 budget.

Trustee Cusumano spoke regarding spending and the proposed budget.

Treasurer Comments

Treasurer Drolet thanked those involved in developing the budget. He noted the budget is balanced and includes decreases in the fire and police protection millage rates. He also spoke about the sale of surplus real property, park development and road improvements.

Clerk Comments

Clerk Pozzi thanked Finance Director Stacy Smith and department heads for their hard work on the budget.

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Supervisor Comments

Supervisor Viviano likewise thanked Finance Director Stacy Smith for her dedication. He announced Town Hall is back to regular public hours of 8:00 am - 4:30 pm. He also spoke about surplus real property sales, development of Pitchford Park, Marijuana Ordinance Amendments, a Fire Bulletin issued by the Fire Department and the sprinkler programming project.

CLOSED SESSION

13. Discuss Consent Judgement Pending Litigation; Macomb County Circuit Court Case 2019-004506-CC; Macomb Township v Estate of Anna M. Deneweth

MOTION by Leon Drolet seconded by Kristi Pozzi to enter into closed session to discuss Consent Judgement Pending Litigation; Macomb County Circuit Court Case 2019-004506-CC; Macomb Township v Estate of Anna M. Deneweth. Per MCL 15.268(e).

ROLL CALL Vote Summary: (7 - 0 - 0)

Ayes - Leon Drolet, Kristi Pozzi, Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

The Board entered into Closed Session at 7:34 PM and reconvened into Open Session at 7:54 PM.

MOTION by Frank A. Cusumano Jr., seconded by Peter J. Lucido III, to Authorize Legal Counsel and Supervisor to sign the Consent Judgment in Macomb County Circuit Court Case 2019-004506-CC; Macomb Township v Estate of Anna M. Deneweth in the amount of \$35,344.00 for just compensation for the property and statutory attorney fees and costs, all inclusive.

Vote Summary: (7 - 0 - 0)

Ayes - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver, Leon Drolet, Kristi Pozzi, Frank Viviano

Nays - None

Abstain - None

THE MOTION Passed.

ADJOURNMENT

MOTION by Kristi Pozzi seconded by Frank A. Cusumano Jr. to adjourn the May 26, 2021 Board meeting at 07:55 PM.

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Vote Summary: (7 - 0 - 0)

**Aye - Frank A. Cusumano Jr., Peter J. Lucido III, Nancy J. Nevers, Charles Oliver,
Leon Drolet, Kristi Pozzi, Frank Viviano**

Nay - None

Abstain - None

THE MOTION Passed.