



Approved

**CITY OF YPSILANTI
COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS
ONE SOUTH HURON STREET, YPSILANTI, MI 48197
Tuesday, January 17, 2017
7:00 A.M.**

I. CALL TO ORDER –

The meeting was called to order at 7:09 p.m.

II. ROLL CALL –

Council Member Bashert	Present	Council Member Robb	Present
Mayor Pro-Tem Brown	Present	Council Member Vogt	Present
Council Member Murdock	Present	Mayor Edmonds	Present
Council Member Richardson	Present		

III. INVOCATION –

Mayor Edmonds asked all to stand for a moment of silence.

IV. PLEDGE OF ALLEGIANCE -

"I pledge allegiance to the flag, of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

V. AGENDA APPROVAL -

Mayor Pro-Tem Brown moved, seconded by Council Member Vogt to approve the agenda.

Council Member Robb moved, seconded by Council Member Richardson to remove Resolution No. 2017-016, stating it was provided with little time to review.

Council Member Murdock stated this is a situation that a business has been shut down and he would like to accelerate the process to resolve the issue. Mayor Edmonds stated she learned about this item on the way to the meeting and has not had time to review the material. Council Member Vogt stated he is neutral, and feels that Council could still hear the information regarding the case. Council Member Bashert stated she does not understand the issue completely, but she is understanding the challenge a business faces when it is closed.

On a roll call, the vote to amend the agenda was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	Yes
Council Member Murdock	No	Mayor Edmonds	No
Council Member Richardson	Yes	Council Member Vogt	No
Council Member Bashert	No		

VOTE:

YES: 3 NO: 4 ABSENT: 0 VOTE: Failed

On a voice vote, the motion carried, and the agenda was approved as submitted. Council Member Robb voted no.

VI. INTRODUCTIONS -

Mayor Edmonds introduced the following individuals; Interim City Manager Frances McMullan, City Attorney John Barr, Interim City Clerk Andrew Hellenga, Police Chief Tony DeGiusti, Assistant City Attorney Dan DuChene, Building Inspector John Roe, DDA Chair Mark Teachout, and DDA Vice-Chair Jessica French.

VII. AUDIENCE PARTICIPATION -

1. Dennis Hayes, 85 Edison Ave, stated he is the attorney representing Depot Town Alternative Health. The business is currently closed which negatively effects the many patients it services. The evidence that resulted in the closing of the business was acquired through inspection. The discoveries made during the inspection have been rectified. He said there was confusion between the inspector and the current state law. The dispensary was cited for improper display of "medibles" and oils, however, the state law changed on December 20th allowing them to be displayed. There were other objection regarding how the medical marijuana was stored, but the business was in compliance with the new law.
2. Jeffery Cifor, member of the Corporation that runs Depot Town Dispensary, stated once he received the letter from the City all of the electrical issues were fixed. He said storing practices returned to how they were previously. For four years all inspections have been passed and the business has become part of the community. He sees this is a misunderstanding. In most other businesses when infractions are noticed through inspection the business owner is allowed time to correct the issues, and are never closed. He said Depot Town Alternative Health has been closed for over a week. He said the building that houses the dispensary was recently purchased by the corporation, and he would not have done something that would have jeopardizes his standing in this community.
3. Chad Seward, 3522 Linden, Jackson, stated he is the area manager of the dispensary in question. Depot Town Dispensary services 300 to 400 patients per week, with \$60,000 in revenue produced. He said because of the closure many people are unable to get their medicine. He said this dispensary prides itself on testing to make certain patients are getting accurate dosages. It is not about the revenue it is about

people not being able to get the medication they need on a day to day basis. He said he used to work for CVS and on inspection if all items were not passed that business would be allowed time to solve the noticed problems.

4. Jessica French, 23399 South Circle Dr., Ann Arbor, stated she is a business owner in Ypsilanti and to see a successful business shuttered for what could be construed for a misunderstanding. If the City Ordinance does not line up with State Law it is a problem and she sympathizes with Mayor Edmonds when she said she was not given the time to properly think through and address these issues. She said we all have the ability to take what is presented today and make a decision. Keeping a business closed not only is not fair it does not say much for Council being pro-business. This business has worked 24 hours a day to bring their building up to code. Depot Town Dispensary employees are unable to pay bills because of its closure. She said Council has the ability to change this and hopes they do not prove her wrong.
5. Mark Teachout, 974 N. Prospect, stated he is a business owner in Depot Town and asked Council to expedite the process. Every day the business is closed can be very difficult and a decision can be reached based on the information provided. He has never heard of a business being closed for code violations. As a business owner he has had violations and was given two to three weeks to correct those violations. He hopes this is not a case of a business being unfairly singled out based on the nature of the business. Through his experience Mr. Cifor and the Depot Town Dispensary have been model citizens. He hopes Council sees it fit to expedite the process.

VIII. REMARKS BY THE MAYOR -

- Said she hopes Council will be able to digest enough information regarding the closing of the dispensary to make a decision.

IX. RESOLUTIONS/MOTIONS/DISCUSSIONS –

1. Resolution No. 2017 -012, approving the City Manager Contract with Darwin McClary. **(Postponed January 10, 2017)**

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

Mr. Darwin D. P. McClary is hereby hired as City Manager of the City of Ypsilanti and that the attached employment contract and its terms and conditions are hereby approved and the Mayor and City Clerk are authorized to sign said contract for and on behalf of the city, subject to satisfactory completion of all pre-employment conditions and approval by the City Attorney.

OFFERED BY: Mayor Pro-Tem Brown
SECONDED BY: Council Member Vogt

City Attorney John Barr stated this matter was first discussed during the January 10th meeting. At that meeting Council had several questions and appointed three Council Members to work with the Attorney's Office to work out the terms of the contract. He said he has spoken with both the sub-committee and Mr. McClary and feels the two parties are close to completing the terms of the contract. Mr. Barr stated Mr. McClary has agreed to 60 day notice before separation of employment. There is still not an agreement on executive leave, Mr. McClary asked what would happen if there was a medical issue that

occurred in the first 90 days of his employment. Mr. Barr suggested beginning the executive leave at 30 days opposed to 90. He said Mr. McClary is agreeable to the housing allowance, using the EMU model. Mr. McClary is not in favor of matching the City's contribution to his pension. Mr. Barr stated Council wanted to have some say in if Mr. McClary could have outside employment, and Mr. McClary agreed. Mr. Barr stated Mr. McClary is not agreeable to statute of limitation clause Council asked to include in the contract. Mr. Barr stated there are a few items that need to be decided upon but Council and Mr. McClary are very close to an agreement.

Mayor Edmonds stated based on her discussions with Michigan Municipal League and comparable throughout the state she sees Mr. McClary as conceding a lot. The City is looking to attract and higher talent, and the majority of Council felt Mr. McClary was the best of the pool of applicants. Ms. Edmonds stated she would like to get this contract finished and get Mr. McClary on board as soon as possible.

Council Member Robb stated Council keeps hearing about how this contract compares to other communities, and asked that Council to be provided with that information. Everything he asked to be provided in the contract he provided examples from other communities. Mr. Robb said the City of Ann Arbor requires an employee to provide a match into their retirement. He said the executive leave time is beginning to spiral out of control. He said Mr. McClary should be given 30 days of executive leave the day he is hired. He said there are a lot of item in the contract that he does not agree with, including not contributing to his retirement plan. Mayor Edmonds stated Mr. McClary's issue is there is no financial benefit to the City whether or not he contributes. Council member Vogt stated years ago he represented unionized attorneys and created their own 401K and it did not require to have employees to contribute to their retirement plans, but it was encouraged. He sees no reason to require the potential City Manager to add to his retirement plan. He does not see a big difference in 120 versus 90 days for severance pay, and cited Mr. McClary has already reduced the time from six months. He also does not see an issue with the vehicle allowance since it is a small monetary difference than him using the City car.

Council Member Richardson stated the contract comes to \$115,000 not including healthcare. She said the candidate is being given the top of the salary range, and if the City agrees to pay him \$100,000 a year the car allowance should be reduced to \$350. She would like to see the severance pay capped at 90 days. She said unless other reductions are made she could not agree with \$100,000 salary. She stated several other employees have not been able to get raises that have been with the City for some time, and to give him \$100,000 does not seem fair. She said on this particular contract her vote will be no.

Council Member Bashert stated she is good with the contract as is, and would support removing the 90 day clause on executive leave. Mayor Edmonds agreed.

Council Member Richardson asked if the Water Street Debt Millage still on the City's agenda. Council Member Bashert responded a citizen's group is working on distributing petitions for an August ballot proposal. She said it will be 90 days until the City sees the petitions. Ms. Richardson responded she is in favor of bringing the millage back, but she has constituents that will reject the millage if this contract is approved.

Mayor Edmonds stated the contract amount of the former City Manager, including all benefits, was \$127,936 and the proposed contract is \$129,530. She said the contracts are fairly similar. Council Member Richardson stated people whom she has spoken with have commented that the former City Manager's salary was \$93,000. Council Member Murdock asked if Council Member Richardson could have the people who would not vote for the millage unless the salary was lowered \$7,000 could come to address Council.

Council Member Murdock stated the manager will probably not take his position until March, leaving ten months until the next calendar year, giving him 30 days for ten months. Moving forward every January 2nd he would get 36 days. He said during contract negotiations for the last City Manager a lot of work was done to reduce the time to 90 days, and he is not interested in what the industry standard is. He said at some point he will offer an amendment to reduce the severance package.

Mayor Pro-Tem Brown stated she will support the contract as written. She said the candidate was willing to reduce the severance to four months, down from six. She stated she took exception to the leave as a lump sum, but that is not something that would prohibit her from approving the contract. The only other issue she had was with the vehicle allowance, but from what she gathers the cost to maintain the current City car would be higher than the allowance. Plus the City's liability would decrease. She said the candidate was Council's first choice, and moves must be made to have him agree to the contract. Mayor Edmonds stated the City Attorney informed Council that to allow the City Manager candidate to use the 2009 Ford Taurus would cost more than providing a vehicle allowance.

Council Member Bashert moved, seconded by Mayor Pro-Tem Brown to strike the executive leave time beginning after 90 days.

On a roll call, the vote to amend Resolution No. 2017-012 was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	Yes
Council Member Murdock	Yes	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	No
Council Member Bashert	Yes		

VOTE:

YES: 6 NO: 1 (Vogt) ABSENT: 0 VOTE: Carried

Council Member Murdock asked why Mr. McClary does not agree to shorten the statute of limitations. Mr. Barr responded this item was proposed by Council Member Robb, which shortens the amount of time an employee can file a lawsuit against the City. It was proposed the statute of limitations would be six months, however, Mr. McClary did not agree to the terms. Mr. Murdock asked if he was agreeable to shortening the statute by any amount. Mr. Barr responded he was not. Mr. Murdock asked what the general law is for statute of limitations. Mr. Barr responded he believes two years. Mayor Edmonds stated Mr. McClary's response to the Attorney's Office stated it is in his best interest because facts can present themselves later than six months. Council Member Richardson asked if the last two City Managers had this stipulation in the contract. Mr. Barr responded the former City Manager did not have a statute included in his contract. Council Member Robb interjected that there was a statute of limitation in the former City Manager's contract. Mr. Barr apologized for misspeaking. Council Member Vogt stated as an attorney he would never advise a client to agree to this term, unless there was an extremely large consideration paid in return for that item.

Council Member Murdock moved, seconded by Council Member Robb to amend Section 3, sub-section e, of the contract by changing 120 days of severance pay to 90 days.

Council Member Murdock stated a six, or four month severance package is excessive, and three months is a perfectly adequate. He said most people, when fired, are not given severance pay and are lucky to get notice at all. He said this might be the standard for City Managers, but it is not his. Mayor Edmonds stated she will vote against the amendment and it might be the tipping point of not getting this person. Council Member Bashert stated this is the right Manager for the City and is Council more invested in

being right, or approving a contract in which both sides have compromised. Council Member Richardson replied it might seem like a small change but she agrees the severance should only be for 90 days. She understands Council wants to hire this individual, but is it willing to make all of these concessions. Council Member Vogt asked what the alternative is. Mayor Pro-Tem Brown responded a majority of Council felt Mr. McClary should be Ypsilanti's next City Manager and the other options would command the same contract, or possibly higher. If Council wants to hire him it will need to meet him halfway. She understands some Council Members would like to reduce the severance to 90 days, but is it worth the risk of not being able to hire him. Ms. Bashert stated she is confused by Council Member Richardson's comments because this is such a small change from the former City Manager's contract.

On a roll call, the vote to amend Resolution No. 2017-012 was as follows:

Mayor Pro-Tem Brown	No	Council Member Robb	Yes
Council Member Murdock	Yes	Mayor Edmonds	No
Council Member Richardson	Yes	Council Member Vogt	No
Council Member Bashert	No		

VOTE:

YES: 7 NO: 0 ABSENT: 0 VOTE: Carried

Council Member Murdock stated overall the contract has changed from how it was originally submitted. He said he still takes issue with providing a parachute of four months because of the work Council did on prior contracts to reduce it to three months. Overall he will support the contract with his issues noted.

On a roll call, the vote to approve Resolution No. 2017-012 as amended was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	No
Council Member Murdock	Yes	Mayor Edmonds	Yes
Council Member Richardson	No	Council Member Vogt	Yes
Council Member Bashert	Yes		

VOTE:

YES: 5 NO: 2 (Robb, Richardson) ABSENT: 0 VOTE: Carried

~~2. Resolution No. 2017-014, setting date to consider the appeal of Depot Town Alternative Health. (Removed)~~

3. Resolution No. 2017-016, approving, denying, or take under advisement the appeal of Depot Town Alternative Health.

Mr. Barr stated a Medical Marijuana Dispensary License has been revoked by the City. The ordinance allow for an appeal, and on January 13, 2017 an appeal was filed with the Clerk Department. The Ordinance states Council must consider the issue no more than 30 days after the appeal is filed. He said a resolution to set a date for the appeal was forwarded to the Clerk Department to be included on tonight's agenda. Today he received an email from Council Member Murdock requesting the hearing be held at this meeting. The appellant and his attorney have both agreed to hold the hearing today, so the Attorney's Office drafted the Request for Legislation (RFL) and coinciding resolutions. If the appeal is held today Council will have three choices; approve, deny, or set a time and date for a final decision. The structure of this process will be for the Mayor to announce the appeal then the Attorney's Office

would state its position, followed by the appellant's decision. The City would then respond to the appellant and Council will consider the evidence presented, debate, and provide a decision.

Mayor Edmonds asked if the Ordinance states an appeal should come to Council, or is this process set by State Law. Mr. Barr responded the Ordinance states the City can license these businesses and if licensed the business agrees to inspections, and as a result of the inspection the City Manager can deny a license. If a license is denied the owner of the business has the right to appeal, but the Ordinance does not describe specifically the structure of the appeal. Ms. Edmonds asked if that is based on state law. Mr. Barr responded possession and sale of marijuana was illegal based on federal law and state law. The state legislated exceptions to the law, such as medical marijuana. The City then decided to create an ordinance to allow for medical marijuana dispensaries so that it could regulate them. The State Legislature decided to add to the law making it clearer. There have not been rules created that dictate how medical marijuana businesses may operate. City staff met to discuss possible changes and it was decided to maintain the current ordinance until the changes were finalized by the state.

Council Member Vogt stated the inspection was on December 22, 2016 and the state law went into effect on December 20, 2016. Mr. Barr responded in the affirmative. Mr. Vogt asked if at the time of the inspection the City was two days out of date. Mr. Barr responded the law changed in the state, but the City's ordinance was still in place. The issue raising from that was the display of edibles, but the City's position is not based on edibles.

Mayor Edmonds announced the beginning of the appeal.

Assistant City Attorney Den DuChene provided the City's remarks regarding the case, and that the appeal be denied.

Mayor Edmonds stated one of the issues noted is the product is required to be in enclosed locked facilities and it was not. Mr. DuChene responded in the affirmative. Council Member Vogt asked if the log book is also state law. Mr. DuChene responded it is required by ordinance, and quantities of product and sales.

Mayor Edmonds asked what the main issue of why the appeal should be denied is. Mr. DuChene replied the not keeping a log, not locking and maintaining the marijuana on the premises, and not ensuring customers were registered patients.

Council Member Bashert asked who from the City was present for inspections. Mr. DuChene responded; Police Chief DeGiusti, Economic Development Director Ernat, Building Manager Daniels, and Inspector Roe. Ms. Ernat asked if that was standard procedure for four city officials to take part in the inspections. Chief DeGiusti responded in the affirmative, and explained each member of the inspection has their own area of expertise. Ms. Bashert stated having worked in restaurants for years and has had experience with health inspections. She understands food is not a controlled substance, but alcohol is. She said it only takes a single inspector to complete the inspections. Mr. DuChene responded city buildings are inspected independently of this process through inspection and a health inspector's expertise revolves around food safety.

Mayor Edmonds asked if the same conditions have been applied in the four previous inspections of this business. Mr. DuChene responded to his knowledge yes. Ms. Edmonds asked if in previous inspections was a log book present. Chief DeGiusti responded in the affirmative. Ms. Edmonds asked if in previous inspections storage was in line with the ordinance. Chief DeGiusti responded there have been incidents in the past, but nothing to this degree. He added during this inspection he, and the other inspectors were asked to stay outside, which raises suspicions. He added the security and accountability for the

product because if a caregiver can only have five patients and can have only two and a half ounces per patient. He said the product was being kept in large plastic containers with only the name of the strain on the container. There was no assignment for the marijuana, making it impossible to know how much marijuana a caregiver has. This is why it is critical to have a log in order to know what product belongs to what caregiver. Ms. Edmonds asked if Chief DeGiusti was a part of previous inspections. Chief DeGiusti responded in the affirmative. Ms. Edmonds asked if there was a log in previous inspections. Chief DeGiusti responded in the affirmative.

Council Member Murdock stated the business passed last year's inspection. Chief DeGiusti responded in the affirmative. He added every year minor issues are noticed at each business, and the business is instructed to make the necessary changes. This year the issues found at Depot Town Alternative Health were so egregious further action was required. Mayor Edmonds asked if the electrical issues were present during the last inspection. Inspector Roe replied they were not. Ms. Edmonds asked if all issues are documented even if the business passes inspection. Economic Development Director Beth Ernat responded the Building Manager would have those records.

Council Member Bashert asked how long the inspection team was asked to stand outside before they were allowed to complete the inspection. Ms. Ernat responded after five minutes two customers entered and the inspection team followed, and it was made clear to the manager that if not allowed to complete the inspection the business would be immediately shutdown.

Dennis Hayes, attorney for the appellant stated both the owner and the manager would like to address Council.

Jeffery Cifor, owner, stated there was a change in the way the medicine was stored, but storage was returned to the previous method. He said the business model is to recruit caregivers and patients who would like to become caregivers. And if patients are unable to find caregivers Depot Town Alternative Health assists them in locating a caregiver. He said a POS system is present that includes all data on patients and caregivers, why the manager told the inspectors there was not a log he could not say. He added recently he had two electricians work to complete all necessary changes.

Chad Seward, 3522 Linden, Regional Manager, stated Council is been slightly misinformed, there are POS systems designed to track "seed to sale" and one of them on the market called MJ Freeway, and very few Michigan based dispensaries use them. The systems are designed to abide by each state guideline and Depot Town Alternative Health is one of the few dispensaries using it in Michigan. The reason the POS was not able to be seen the date of the inspection is because MJ Freeway was hacked on December 15th. As recent as today the system is back in place and all data is being tracked. However, all previous data is still not yet in place, which will slowly be replaced over the span of a few weeks. Mayor Edmonds asked if the electronic record was in place in previous years, and if Mr. Seward was a part of previous inspection. Mr. Seward responded he was hired at the end of April, and not a part of previous inspections. Council Member Robb stated the MJ Freeway Facebook Page states the hack took place January 8th not December 15th. Mr. Seward responded he can only report on what he was told by MJ Freeway, and provide backlog data.

Council Member Vogt asked why this explanation not given to the inspectors. Mr. Seward responded he is not certain, but the report stated the manager was asked for "hard cards", which are not kept on site by law. He said these records to exist and can be provided if

requested. Mayor Edmonds asked if he was the manager on duty the day of the inspection. Mr. Seward responded he has not.

Council Member Vogt asked if there is an argument contrary to the City's claim medicine was provided to patients without proper identification requested. Mr. Seward responded he would argue that fact, and said it is protocol to ask for identification before being allowed to receive medicine. Mr. Vogt responded since Mr. Seward was not present he cannot be certain if the practice is adhered to. Mr. Seward responded since he has been employed he has never witnessed an employee not following this protocol.

Council Member Vogt asked for an explanation of the assertion that staff witnessed containers holding product being removed from the building. Mr. Cifor responded that occurred after City officials told his staff to remove the "medibles" from the shelf. After the request his staff was transferring the product to an office in the rear of the building. Mr. Seward added the design of the facility is as follows; the entrance flows into the lobby, once in the lobby there is another door which can only be accessed from the inside. Once verified the individual has a card they are allowed in all of the medicated products are in a locked office, which also contains in safe and that is where the "medibles" were taken.

Council Member Richardson asked what the procedure is if two people enter the facility and only one has a card. Mr. Seward responded the person without a card would be required to stay in the lobby.

Council Member Bashert asked why the inspectors were not allowed access immediately. Mr. Cifor responded patients may have been present in the meds room, and a patient's privacy would come first. Mr. Seward added five minutes to wait for an inspector to wait is not a long time in any industry. However, he cannot not speak to why the manager did not allow the inspectors in immediately. Council Member Robb asked why the manager was not brought to this hearing to answer these questions. Mr. Seward responded the manager was welcome to come, however, he cannot not force the manager to be present. Mayor Edmonds asked if the manager is still employed. Mr. Seward replied he is still employed but has been reprimanded. He added if Council needs further information after this hearing the employee will be made available for questioning.

Mayor Pro-Tem Brown stated the inspection report stated three patients were given access to the area past the lobby without providing identification. Mr. Seward responded he was not present that day, but the policy is to always ask for identification. Ms. Brown asked for clarification of the process. Mr. Cifor responded there are two windows, the first has a receptionist that will check the patient's information on a POS. The patient would hand the receptionist their license and medical marijuana card, which would be checked to ensure the patient was in fact in the system. If the patient was not in the system the receptionist would assist the patient in finding a caregiver. He added every patient's identification is verified before being allowed access. Ms. Brown asked how long it would take to verify a patient. Mr. Seward responded between five and twenty minutes depending if the individual is a new patient.

Council Member Bashert stated this is a "he said, she said" situation. She said the hack of MJ Freeway has not been verified. Mr. Seward responded it is on their Facebook page. Council Member Robb confirmed and said the hack was January 8th. Mr. Robb asked how a hack that occurred in January could effect not being able to produce the log during the inspection. Mr. Seward responded the hack only prevents him from proving the records previous to the hack. He said he finds it interesting that the POS system was not noticed during the inspection. Mayor Edmonds responded Mr. Seward was not present and does not have a frame of reference for what occurred during the inspection.

Council Member Murdock asked if the employee on duty during the inspection was interviewed. Mr. Seward responded in the affirmative, and much with what the employee said is consistent with the report. He said perhaps if the questions regarding the patient log were asked in a different way he would have provided the inspectors with information on the POS system.

Council Member Vogt stated in essence it is being acknowledged that certain things not yet authorized did occur. Mr. Seward responded the attorney representing the dispensary advised him once the state law changed they could abide by the new law. Mr. Vogt asked when the change was made. Mr. Cifor responded the change was made on December 20th. Mr. Vogt asked if on the day of the inspection they were removed from the display. Mr. Cifor responded in the affirmative. Mr. Hayes added the law regarding "medibles" did in fact go into effect on December 20th per House Bill 4210. Mr. DuChene responded the Attorney's Office has conceded that "medibles" were likely legal at the time of the inspection. Mr. Hayes stated the other law House Bill 4209, regarding provisioning centers, will take a year to create the bureaucracy to govern the new law.

Council Member Richardson asked what the major concerns that Council should be reviewing are. Mr. DuChene responded the law limits the amount of marijuana that can be possessed by caregiver for a patient. The law also strictly limits how sales can occur between caregivers and patients. In order to make sure those laws are followed there needs to be a tracking system that links the caregiver to each of their patients. Also, the City Ordinance requires that a logbook, or database be maintained. The other issue is the locking and general storage of the marijuana. Those are the main issues aside from the suspicious actions that took place on the day of the inspection. Mr. Hayes responded locked facilities are only a condition that apply to grow facilities. Mr. Cifor added there is nothing in the law that states the medicine must be locked. Also, there was a recent court case that voided the closed container protocol. Mr. Hayes stated the building code violations should not be an issue that would result in the closure of the business. He said the other violations were a result of an inexperienced manager, and he attempted to do what was appropriate. He said Depot Town Alternative Health is attempting to comply with the law, which it has done since opening. He said Council has three choices; to adjourn the hearing to allow for more evidence, to grant the appeal, or to deny the appeal. He asked that Council allow this business to reopen in order to service its payments. He said this business has passed all of its previous inspections and the observations made by the inspectors are open to more than one interpretation. He said it must be kept in mind this business has patients that desperately need their medicine.

Mr. DuChene stated the question before Council is not whether or not there has been an attempt to comply with the ordinance, it is if a violation has occurred. He said there is also a claim it is not the fault of the respondent the manager was unprepared at the time of the inspection. He said the purpose of the inspection is to ensure the business is complying with the ordinance. The respondent claims to use a seed to sale tracking system, which may be, but the reason it was not available at the time of the inspection is that it was hacked. If it happened on January 8th it was well after the inspection, and why would the log not have been provided the day of the inspection. Mayor Edmonds responded that would be a question for the manager that is not present. Mr. DuChene hypothesized that it was not produced because it was not being used at that time. He said even if a "seed to sale" POS system was being used how it could have been effective if the marijuana was being stored in containers that do not properly identify the caregiver.

Mayor Edmonds asked for clarification of how tracking works. Mr. Seward responded MJ Freeway is designed so that every caregiver must be setup as a vendor. All patients serviced by that caregiver are tracked through that system and those patients would only be given product produced by that vendor. Ms. Edmonds asked if the container would be labeled as belonging to a specific caregiver. Mr. Cifor responded each caregiver is allowed five patients, and allowed to have two and half ounces per patient. If the caregiver was also a patient there would be a possibility of fifteen ounces assigned to that caregiver. Council Member Vogt asked how is it kept track that one patient does not get all of the medicine. Mr. Cifor responded a patient is only allowed to possess two and half ounces at any given time. Mr. Vogt asked how the inspectors, or another third party would, know how much product a patient receives. Mr. Cifor responded the dispensary does not have access to the caretakers product unless they are on the premises. Mayor Pro-Tem Brown asked if the POS tracks "X" product from a caregiver to a patient. Mr. Cifor responded in the affirmative.

Chief DeGiusti stated in each of the other dispensaries every caregiver has a locker that only they are able to access. That is where each caregiver's product is stored unless they are on premises. The logbook should have the exact amount of product recorded for each caregiver.

Council Member Richardson asked if she were a patient her caregiver would need to be present in order for her to access her medication. Chief DeGiusti responded in the affirmative.

Mr. DuChene stated the reason given by the respondent as to why the product was being removed from the store is because they were asked to remove the "medibles". Mr. Cifor responded it was not removed from the store. Mr. DuChene stated the product was removed before the City began its inspection. The other issue is that patients were allowed access without providing proper identification as required by law.

Council Member Richardson stated there needs to be another inspection ensuring everything is in order before she is willing to grant the appeal.

Council Member Murdock asked if the building violations, not including the electrical violations, were simply cleaning the egress and would not have required a contractor. Mr. Roe responded in the affirmative.

Mayor Edmonds stated by the facts presented it sounds like there were errors. She said the appellant informed Council that most, if not all have been corrected. She recommended a conditional reopen until a re-inspection can be completed, and at that time, if the inspection is completed satisfactorily a full license would be rewarded. Also, that staff of Depot Town Alternative Health be given further training. Mr. Cifor interjected staff has already been given additional training. Ms. Edmonds requested proof of the additional training to ensure these issues do not reoccur.

Council Member Robb stated the two issues of this regarding this appeal are the log book, and at the time of the inspection the manager did not show a point of sale system. The appellant's attorney claims it is not the business' fault the manager failed to produce the log, but it actually is the fault of the business. However, once the data is restored in their tracking system this can be verified. The other issue is more egregious, the ordinance states that product is to be stored and locked. The appellant had done that in the past and ceased that practice, until after they failed inspection. That is a violation of the ordinance and Council should set a fine for that violation. Mayor Edmonds asked what the amount should be for the fine. Mr. Robb responded \$2,500.

Council Member Bashert stated it seems the business was poorly run for some time, which is upsetting because it deals with a controlled substance. She agreed that if everything has been corrected, and a fine has been paid the appeal should be granted.

Council Member Murdock asked how long the business has been closed. Mr. Seward responded a week.

Council Member Bashert asked if the entire system of how product has secured had been changed two days prior to inspection. Mr. Cifor responded they were under the impression all the new state laws had taken effect on December 20th. He added the system was mostly the same except the way the medicine was stored. Once the new law does take effect caregivers will no longer play as big of a role with provisioning centers, vendors and commercial growers will be supplying dispensaries. Ms. Bashert stated it appears Depot Town Alternative Health cares a great deal about its patients, and should care about its property to the same degree.

Council Member Murdock stated this is a heavily regulated business, more so than any other business type. If the appeal is denied it would be a death sentence for this business because there are seven issued licenses and the City set a cap of six. The City could provide for conditional approval, on several conditions; a re-inspection, to ensure the business is following practices set by ordinance, adjustments in training, and a re-inspection fee of some sort. A full license would depend on the outcome of the inspection.

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

This resolution concerns the appeal of the City denial of a license renewal of Depot Town Alternative Health Care, Inc., Appellant.

Upon agreement of all parties the matter was considered by Ypsilanti City Council this day.

After review of all the documents, including the Letter of Non-Renewal of Medical Marijuana Dispensary License with attachments of building code violations and Inspection Report, and review of the Appeal request of January 13, 2017 and the letter of attorney Dennis Hayes, and the statements and arguments,

It is determined that the facts set out in the letter of Non-Renewal are accurate, relevant significant and serious and are in violation of the ordinance, and the Appellant has corrected all the violations and there is a question of the application of law, and this is the first violation of the Appellant.

Now therefore, after consideration of all the facts, statements, arguments and materials, City Council is satisfied that since the violations have been corrected and the interests of justice will be served if the Appeal is granted;

THE APPEAL IS GRANTED and the city manager is directed to issue the license renewal.

OFFERED BY: Council Member Robb

SECONDED BY: Council Member Bashert

Council Member Robb moved, seconded by Council Member Bashert to extend the meeting until 11:00 p.m.

On a voice vote, the motion carried, and the meeting was extended.

Council Member Robb stated he would like the business to be able to open tomorrow if the fine is paid. Mr. Barr stated the way the resolution has been read it would require the appellant to complete the listed conditions before being issued a license.

Mayor Edmonds asked when the earliest date staff can do re-inspections is.

Council Member Robb asked what the hack has done to the POS system, and how can the business operate while it is done. Mr. Cifor responded the patient's card and license are requested, copies are made, and the sale is recorded on paper. Mr. Robb asked if the POS system is down how you will track how much product a caregiver has on hand. Mr. Seward everything would need to be recorded by hand. He said MJ Freeway is currently functioning, however it does not include data from before the hack. Mr. Robb stated if the inventory is included he does not see an issue with awarding a conditional license.

Council Member Bashert stated the state law regarding medical marijuana seems dynamic, and it might be time to begin reviewing the City's ordinance. Mr. DuChene responded that process has already begun.

Council Member Murdock asked if the business will be able to open during re-inspection. Mayor Edmonds responded the way the resolution reads the business may reopen once the conditions are met. She asked if staff can let Council know by noon tomorrow when the re-inspection can take place. Chief DeGiusti responded he will be able to give an affirmative response if something will or will not be able to happen this week. Ms. Ernat stated building inspections are scheduled six to twelve months in advance. Council Member Bashert replied this business cannot be expected to wait six to twelve months for another inspection. Ms. Ernat replied the building department is short staffed due to medical leave and training. If Council wants the re-inspection to happen as soon as possible, other scheduled inspections will need to be postponed.

Council Member Murdock stated there must be a way for this business to open while it awaits inspection. He said a conditional license could be awarded while, once it passes re-inspection a full license can be awarded. Council Member Robb added he would prefer the fine be paid before being awarded a conditional license.

Council Member Vogt stated as a result of difficulty in scheduling the re-inspection he would support a conditional license if the fine has been paid. He added the re-inspection does not need to be completed all the same date. Mr. Barr agreed this would be an acceptable process.

Council Member Robb removed his motion on the original resolution.

Substitute Resolution No. 2017-016

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

This resolution concerns the appeal of the City denial of a license renewal of Depot Town Alternative Health Care, Inc., Appellant.

Upon agreement of all parties the matter was considered by Ypsilanti City Council this day.

After review of all the documents, including the Letter of Non-Renewal of Medical Marijuana Dispensary License with attachments of building code violations and Inspection Report, and review of the Appeal request of January 13, 2017 and the letter of attorney Dennis Hayes, and the statements and arguments,

It is determined that the facts set out in the letter of Non-Renewal are accurate, relevant significant and serious and are in violation of the ordinance, and the Appellant has agreed to correct all the violations and there is a question of the application of law, and this is the first violation of the Appellant.

Now therefore, after consideration of all the facts, statements, arguments and materials, City Council is satisfied that when the violations have been corrected and the interests of justice are served, a conditional license will be granted upon payment of \$2500 for fines and costs.

Be it further resolved, the following conditions must be met before full license is restored:

- 1. All violations are corrected**
- 2. The property and premises are re-inspected with no violations**
- 3. Evidence of additional training**

OFFERED BY: Council Member Robb
SECONDED BY: Council Member Murdock

On a roll call, the vote to approve Resolution No. 2017-016 as amended was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	Yes
Council Member Murdock	Yes	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	Yes
Council Member Bashert	Yes		

VOTE:

YES: 7 NO: 0 ABSENT: 0 VOTE: Carried

Council Member Vogt stated he is proud of all involved parties including Council. This is a difficult issue to resolve in one night, and the resolution is a perfect example of public service.

X. AUDIENCE PARTICIPATION –

None

XI. REMARKS FROM THE MAYOR –

Nominations

Historic District Commission

Ann Stevenson (**Reappointment**)
707 Collegewood
Exp. 1/31/2020

XII. ADJOURNMENT –

Council Member Bashert moved, seconded by Council Member Vogt to adjourn the meeting.

On a voice vote, the motion carried, and the meeting adjourned at 10:27 p.m.