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LOCAL

Menominee quilter showcases her work at Spies Library.

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SPORTS

Thunder 18U take third at WAHA State Championships.

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Good morning, **Alyce Gusick!** Thank you for subscribing to the EagleHerald

DEATHS

Behnke, Linda A.
Carriveau, Edward L.
Conant, Cheryl L.
Ruff, Jean M.
Sulk, Verla
Williams, Joel A.

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TODAY'S WEATHER

HIGH LOW
44 | **29**

Warmer with periods of light rain.

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EAGLEHERALD CONTRIBUTOR/PAUL WILLIAMS
A crowd at Menominee City Hall came to speak at Monday's council meeting in support of Spies Library, and waited about three hours to make a comment, after hearing debate on a marijuana ordinance.

A divided Menominee council

Vote is 6-3 to pass marijuana resolution; mayor says meeting violated open meetings law

ERIN NOHA EagleHerald Staff Writer

MENOMINEE — In an explosively charged meeting, the Menominee City Council voted 6-3 Monday on a resolution expressing the city council's desire to pass an ordinance to authorize seven marijuana businesses in Menominee.

Mayor Jean Stegeman, Donna Marinneau and Michael DeDamos voted against it. In contrast, Bill Plemel, Josh Jones, Dennis Klitzke, Jackie Nutter, Doug Robinson and Joe Dulak voted for it.

That decision came after the council voted 5-4 to accept the resolution on the agenda and not move it to another meeting and after another vote failed

3-6 to remove action items from the agenda.

"I feel this meeting was called in violation of the Open Meetings Act," said mayor Jean Stegeman.

Suppose the city is found to be in violation of the Open Meetings Act. In that case, another meeting will need to be held, and action items will need to be revoked on. The removal of action items on the agenda was an attempt to allow the meeting to happen without any action taken on agenda items.

OPEN MEETINGS ACT

"It's been published for months," said council member Jackie Nutter.

"I'm not going to argue with you," said city attorney Michael Ceello.

"I believe we are compliant with the Open Meetings Act," council member Joe Dulak said.



EAGLEHERALD CONTRIBUTOR/PAUL WILLIAMS
Council member Jackie Nutter reacts to heated debate at Menominee City Council's Monday meeting.

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Council/from A1

“Let me read to you a sentence from the former attorney general of the state of Michigan. ‘The city council is acting in clear violation of the notice provisions of the open meeting act.’ Period. So it’s not just my opinion,” Celedo said. “It has to be posted. Having a list of meetings buried in a 24-page document that’s made part of the minutes...”

Nutter speaks, and the first gavel hit echoes in the council chambers.

“You can’t keep interrupting him,” Stegeman said, speaking to Nutter. “We have to go back and forth, and it’s too hard to keep track of this conversation if you’re going to talk over one another.”

City manager Brett Botbyl said the notice was sent to the web host Friday at 12:33 p.m.

“This morning, when we got in, we saw that it was not posted properly. That’s when I contacted you and said that we should reschedule our meeting so that we can compile...” Botbyl said.

“You scheduled it for tomorrow,” Nutter said. “I already have plans for tomorrow...”

“Well, I’m sorry about that. We all have plans,” Botbyl said as another gavel hit occurred. “Then I said if that didn’t work...”

“You’re not sorry about that,” Nutter said.

Another gavel hit.

“Nutter!” Stegeman said.

“No! You’re only hammering at me, but we’re both going back and forth,” Nutter said.

Meanwhile, a standing-room-only crowd attended to speak on another issue later at public comment, the funding for Spies Public Library. They waited patiently in the charged atmosphere in the council chambers.

“My recommendation tonight would be: We can still hold the meeting; we just don’t go over the action items and take action on those,” Botbyl said.

However, council members wanted to keep the agenda items to consider a

I’ve always said that I don’t want this place taking my last breath. I’d be better off smoking a cigarette every 10 minutes because we look and sound foolish up here. Certainly, if we want to discuss this, let’s have a proper time and place.”

Menominee city manager Brett Botbyl

marijuana resolution.

The vote to take things off the agenda and find another date for the meeting failed 3-6, with Stegeman, Marineau and DeDamos voting yes and Dulak, Jones, Klitzke, Nutter, Robinson and Plemel voting no.

“You are all in violation of the Open Meetings Act,” Stegeman said after the vote. “You are all making a huge mistake.”

MARIJUANA RESOLUTION

Plemel said he received information from legal counsel that they did not violate the Open Meetings Act. He proceeded to present his resolution to add to the agenda.

The resolution concludes with “NOW THEREFORE, BE IT RESOLVED that the City Council hereby expresses its desire to initiate the required process toward consideration of an ordinance amending the Marihuana Establishments Ordinance, Section XX.02(8) to authorize a total of seven (7) marihuana retailer establishments, and to award the additional five (5) licenses to Attitude Wellness, LLC d/b/a Lume, Highwire Farms, LLC, O.I. Holdings, LLC, Rocky North, LLC d/b/a Green Parm U.P., and NU Group, LLC, if or when the ongoing litigation has been resolved and/or supposed of entirely on the merits.”

“It’s a resolution to look into a settlement. That’s what it is. That’s what it says. You know it, we know it, we all know it. You just don’t want to settle,” Plemel said.

“But you’re settling a case that you’re winning,” Celedo said.

“Does it say we’re making a motion to do it, or are we making a motion to consider it?” Plemel said, speaking

rhetorically.

“This is about taxpayers. This is about revenue,” Dulak said, who sits on the finance committee. “Our city is in a deplorable financial condition. Why are we being sued by five entities that want to do business within our community?”

“Any lawsuits after this, you’re going to be paying for it, and every resident is going to be paying for it,” Celedo said. “You have people who know if they didn’t get a license, they can sue.”

Dulak asked Celedo about the cost of the lawsuit. Celedo said he doesn’t have those numbers but estimated

\$10,000 to \$15,000.

“The enemy in my mind here is time,” Nutter said.

LETTER

Celedo then asked Botbyl to read the letter sent by the companies approved for licenses.

“It’s come to our attention that certain members of the city council may move to amend tonight’s agenda to allow a vote on changing Menominee’s current limitation on retail marijuana licenses in Menominee’s marijuana establishments ordinance,” Botbyl said. “We are writing to share our concerns about this disturbing and unlawful development.”

The letter mentions that the clients have already spent over \$2 million in Menominee.

“Not to hear from our clients before any vote would not only be unfair, but foolhardy,” Botbyl said, reading the

More COUNCIL | A3



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Council/from A2

letter. "Right now, the marijuana business in Michigan is in tremendous turmoil. Right now, there aren't any municipalities with populations under 15,000 population that allow two or three licenses that have thriving marijuana businesses."

Stegeman suggested putting the resolution on the agenda for another meeting that would only feature this issue and involve other parties so the council could hear from everyone involved before making the decision.

"There have been many requests by councilman Plemel about adding this as an agenda item," Nutter said. "The reason we're adding it manually is because it wasn't added."

MORE ON RESOLUTION

Botbyl mentioned the resolution proposed by Plemel was written by Joni Moore, president of Ottawa Innovations or O.I. Holdings, LLC, who is named in the resolution as a marijuana establishment getting a license.

"Don't you think it'd be in our best interest for us to draft it?" Botbyl said.

"Are you saying that an idea would get us sued?" Plemel said. "All we're saying is that we're interested in the settlement."

A shouting match ensued.

"Do you think they're going to wait 'til after you settle to sue you?" Celello said.

"They could sue us tomorrow," Plemel said.

"You've been informed of that," Celello said. "Litigation council has made you aware of that."

Another gavel bangs. "You should not be having these discussions in open session," Celello said.

"I tried to get the discussion of this three times over the last six months. It's been turned down every time," Plemel said.

"Because you're in active litigation," Celello said.

"I don't care if we're winning or losing. It doesn't matter. We're not getting any damn income for the City of Menominee," Plemel said.

"Seriously, if you think

we're going to..." council member Marineau said.

Stegeman hit the gavel three times.

"Alright, that's enough! That's enough! That's enough! That's enough! Stop! Stop! Stop! Stop," Stegeman said.

REVENUE POTENTIAL

Botbyl then stated that the city gets \$51,800 per retail license for marijuana. He said the cut-off date to receive the money for next year is the end of September.

"This city needs additional revenue sources. Is that going to solve the problem? No," Robinson said, mentioning the money per license is a step in the right direction. "... it's one dollar at a time. The most important dollar you have is the one you got and the one you can get. There's also a cost to not doing something."

Marineau mentioned she talked to the city managers of Iron Mountain, Marquette and Escanaba.

"I asked all of them how much money they were bringing into their communities on licenses they have," Marineau said. "What they said is not nearly enough as much as they expected. What they're getting is just enough to fill in a few cracks in their budgets, and that is it. We're not going to be making millions of dollars off these."

Dulak said the city has many vacancies that could be rehabilitated should marijuana establishments move in.

"I've never experienced this before in 28 years of practice," Celello said. "Are there going to be any consequences? I don't know. I'm not going to sue you."

Botbyl recommended staying the course until the final decision was made. He said that if they want to talk about uncapping and amending the ordinance, that would be the time to do it.

"I've always said that I don't want this place taking my last breath," Botbyl said. "I'd be better off smoking a cigarette every 10 minutes because we look and sound foolish up here. Certainly, if we want to discuss this, let's have a proper time and place."

Stegeman pointed out that the marijuana ordinance barely passed in

Menominee. She said people don't want a marijuana place on every corner.

"How do we survive until we get a ruling?" Robinson said.

"I'm not saying we're waiting another year," Botbyl said. "There's a motion to dismiss in front of a judge on May 1."

The meeting was one hour and 15 minutes in, and they were only on agenda approval. Stegeman assured Plemel that they were close to closing out the lawsuit, then they could talk about uncapping.

"To do it at this point in time, it's misguided," she said.

"I believe the motion on May 1 is to stop the stay and start doing business," Celello said, citing precedent with a Norway (Michigan) ruling. "That's why it's a pretty important motion. If she rules from the bench, these places are going to put shovels in the ground on Tuesday."

The council then voted 5-4 to keep the resolution on the agenda, with Plemel, Nutter, Dulak, Jones and Klitzke voting yes and Stegeman, Marineau, Robinson and DeDamos voting no.

The first section of public comment on agenda items was presented at this point. A representative from Fire Station came up to speak, who asked not to be named.

"I want to ask that you refrain from passing the ordinance. We are in legal proceedings, and moving forward with what you're talking about today puts you at risk for litigation. It is likely other applicants would view such conduct as preferential treatment and litigate new litigation, dragging the city back into the mess it was already in."

DeDamos said he's against the resolution and refuses responsibility, saying he has had to answer to his constituents on this matter.

"I don't want to be a bad guy anymore," DeDamos said. "If there are further delays, they own it."

Dulak said there was no conflict of interest as a real estate broker in this situation. Klitzke also said he had no intention of selling his property to a marijuana establishment. Jones

also said his brother is an attorney, and one of his brother's clients is a marijuana firm. He said he was open to the council voting on whether he should make votes in these matters, but the council didn't agree to another vote.

Instead, the resolution proposed by Plemel passed 6-3.

"The decision that the majority has made has put us in jeopardy, and they were advised repeatedly against taking this action," Stegeman said. "However, I still believe that we had an open meeting violation. Everything we did here tonight is null and void."

Erin Noha can be reached by email at enoha@eagleherald.com

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