

GARLAND S. DOYLE, M.P.A.

*Interim City Clerk  
FOIA Coordinator*

SHEILA GRANDISON

*Deputy City Clerk*



OFFICE OF THE CITY CLERK

47450 Woodward Avenue  
Pontiac, Michigan 48342  
Phone: (248) 758-3200  
Fax: (248) 758-3160

MEMORANDUM

TO: Honorable City Council

FR: Garland S. Doyle, Interim City Clerk

A handwritten signature in blue ink, appearing to read "G.S. Doyle", is written over the "FR:" line. The signature is enclosed in a hand-drawn oval.

DA: March 18, 2021

RE: Memorandums from Nick Curcio, Esq., The Curcio Law Firm regarding Medical Marihuana and the Planning Commission

As you are aware, City Attorney Anthony Chubb, Giarmarco, Mullins & Horton, P.C. issued a legal opinion on April 29, 2020 regarding conditional rezoning obligations/Glenwood Plaza. In the opinion, it states that the conditional rezoning agreement approved by the City Council on January 21, 2020 "allows zoning and uses nonconforming with the relevant provisions of Pontiac Zoning Ordinance Amendment No. 2363 to the extent its requirements are inconsistent. Therefore, pending applications submitted by Pharmaco must be timely reviewed. Further, upon determination that they are in compliance with all requirements of Ordinance 2357 (B) applicable to growing operations, such licenses shall be issued by the City Clerk's Office." I have informed your honorable body, Mayor Waterman and City Attorney Chubb on several occasions that his opinion is asking me to issue a license when it is not permitted by Ordinance 2363.

Despite my concern, Mayor Waterman and City Attorney Chubb along with the developer Rubicon Capital LLC continue to apply pressure to myself as the City Clerk and has asked this Council to force me to issue licenses (permits) to their prospective tenants (Pharmaco Inc and Family Rootz).

On February 16, 2021 during the Clerk's Response to Glenwood Plaza Medical Marihuana Project, I informed the City Council that it would be illegal for me to issue a license to any medical marihuana grower or processor applicant at the Glenwood site. Ordinance 2363 does not permit growers or processors to be licensed outside of the Cesar Chavez or Walton Blvd Overlay Districts. My statement is recorded in the February 16, 2021 approved minutes.

As a result of my concern that the City Administration (Mayor and City Attorney) are asking me to perform what I believe is an illegal act, I felt that this was necessary for me to seek my own independent legal counsel to protect myself from any civil or criminal liability. I retained Nick Curcio, Esq. Attorney Curcio practice primarily focuses on municipal and zoning law.

I asked Attorney Curcio the following questions:

1. Whether, and in what circumstances, the zoning ordinance allows parcels outside the Medical Marijuana Overlay District (MMODs) to be approved for marijuana-related uses. To help clarify the issue, I asked for an opinion as to whether the Planning Commission is authorized to grant a special exemption permit for a marijuana grower or processor at a location outside of the MMODs. Also I asked if a conditional rezoning agreement could authorize the Planning Commission to do so, without rezoning the property in question to be part of an MMOD.

Attorney Curcio's memo regarding locational requirements for marijuana growers and processors dated March 9, 2021 is on the agenda as item 10a. Attorney Curcio's opinion validates my position that Ordinance 2363 does not currently permit growers or processors to be licensed outside of the Cesar Chavez or Walton Blvd Overlay Districts. It would be a violation of Ordinance 2363 and illegal for me as the City Clerk to issue any grower or processor a license (permit) if they are located outside of the Cesar Chavez or Walton Blvd Overlay Districts. If the City wants to permit growing and processing at the Glenwood site, then the City Council would have to amend Ordinance 2363.

2. In addition, I asked for an opinion as to whether the Planning Commission has a duty to review the proposed ordinance and make an up-or-down recommendation to the City Council.

Attorney Curcio's memo regarding Planning Commission's failure to act on City Council referral dated March 9, 2021 is on the agenda as item 10b.

3. Finally, I asked for an opinion as to whether planning commissioners are legally permitted to continue serving after their reappointments were rejected by City Council. If so, whether there is any limitation on their ability to do so.

Attorney Curcio's memo regarding Planning Commission holdovers dated March 9, 2021 is on the agenda as item 10c.

cc: Mayor Waterman  
City Attorney Anthony Chubb