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March 23, 2023

SENT VIA EMAIL

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Sandra Bayerl sent via email to: sbayerl@menomineeemi.gov

Re: City of Menominee's March 20, 2023 City Council Meeting

Dear Members of Menominee City Council:

I hope you are well. As you are aware, my office represents OI Holdings LLC and Higher Love Corp. Inc. (collectively referred to herein as "Higher Love"). The purpose of this letter is to address misunderstandings regarding the Open Meetings Act and reiterate Higher Love's priority to work with the City, resolve the pending litigation, and proceed in a transparent and compliant manner.

1. Did City Council violate OMA at the March 20 meeting?

Respectfully, Mayor Stegeman's alleged comment that Monday's (March 20) meeting was "called in violation of the Open Meetings Act" is unfounded. Monday's meeting was properly noticed and proceeded in absolute compliance with OMA and the City's Charter. Moreover, the City's decision to adopt a resolution regarding settlement of the ongoing litigation related to the MRTMA and the City's Marihuana Establishment's Ordinance was an important step in the right direction for the City and its constituents, and Higher Love applauds its efforts.

Specifically, notice was properly provided in advance of the meeting. Under MCL 15.264(b), a public body must post notice of a public meeting "at its principal office and any other locations considered appropriate by the public body." See also MCL 15.265. Here, the March 20, 2023 notice was posted both at City Hall and in the December 27, 2022 publication of the Eagle Herald. The schedule, which includes the March 20, 2023 date, was included in the agenda packet

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and publicly available at the December 19, 2022 City Council Meeting as well. **Exhibit A.** Finally, the meeting date and time was published in the January 16, 2023 meeting packet because the City Council approved the December meeting minutes, which included Monday's meeting, at that public meeting as well. In other words, the 2023 Meeting Schedule, and therefore notice of Monday's meeting, has been posted multiple times and has been public in various forums for almost three months now. Accordingly, notice was proper and the Council's action on the proposed resolution of the pending litigation was perfectly valid and appropriate.

The resolution was also properly added to the agenda. Pursuant to the Robert's Rules of Order, a new piece of business or proposed action must be made by a council member and seconded by another member. Here, Councilman Plemel moved to include a resolution to express the City's desire to settle with the Plaintiffs and enact an ordinance amendment authorizing the issuance of seven (7) marijuana retail establishment licenses. After Councilwoman Nutter seconded the motion and five (5) councilmembers approved the addition, discussion proceeded in an open, public forum. Thereafter, six (6) councilmembers voted to adopt the resolution. **Exhibit B.**

Finally, the meeting was held in an open, public forum. Discussion of the proposed resolution proceeded in an open, public forum. The allegation that the City is opening itself up to liability by a properly noticed, regularly scheduled, and indisputably open meeting is not based in law or reality. Rather, the agenda item, and the related resolution, was brought before the public to demonstrate that the City and the Plaintiffs wish to proceed in a manner that is transparent and most advantageous to the Menominee community. Thus, any allegation that the City made that important step in violation of the OMA is absolutely false.

2. What would it mean if the City settled and awarded 7 marijuana retailer establishment licenses?

Higher Love's top priority is resolution of its dispute with the City and to proceed in a compliant, transparent manner. The proposed resolution would indisputably achieve those goals. If the City enters into a binding settlement agreement with Plaintiffs, the matters pending in the 41st Circuit Court and the Michigan Court of Appeals could be resolved, and Plaintiffs could proceed with their planned investments into the community, bringing increased value and assistance to the City and its budget concerns expressed in the meeting. Beyond the state revenue sharing of excise tax that the City would receive from Higher Love's, and any other cannabis licensees', operations, Higher Love also has plans to invest in the community and create local jobs. Higher Love is already an established business in the U.P. and wishes to work hand-in-hand with the City to settle any differences and move forward.

MILLER JOHNSON

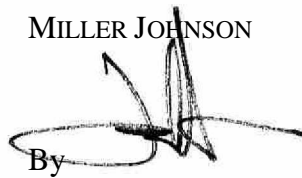
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In summary, Higher Love congratulates the City on this important step and sustained effort to work in the best interest of its citizens. We look forward to an expedient settlement and resolution.

Sincerely,

MILLER JOHNSON

A handwritten signature in black ink, appearing to read 'J. Monahan', is written over the printed name 'MILLER JOHNSON'.

By

Joslin E. Monahan

Enclosures: Exhibit A – Meeting Minutes
Exhibit B –Resolution

JEM/asp

CC: Matthew Cross – MCross@plunkettcooney.com

Eagle Herald – Erin Noha – enoha@eagleherald.com

Bay Cities Multi Media Center – Melissa Ebsch – melissa@baycitiesonline.com

Exhibit A



City of Menominee

City Hall • 2511 10th Street • Menominee, MI 49858-1995

Phone (906) 863-2656 • FAX (906) 863-3266

2023 MEETING SCHEDULE

MONTH	MONDAY 6 p.m. CITY COUNCIL	THURSDAY 4 p.m. W W U B	TUESDAY 11 a.m. CEMETERY BOARD	TUESDAY 4:15 p.m. PLANNING COMMISSION
January	16 th	12 th	10 th	10 th
February	21 st Tues	9 th	14 th	14 th
March	20 th	9 th	14 th	14 th
April	17 th	13 th	11 th	11 th
May	15 th	11 th	9 th	9 th
June	19 th	8 th	13 th	13 th
July	17 th	13 th	11 th	11 th
August	21 st	10 th	8 th	8 th
September	18 th	14 th	12 th	12 th
October	16 th	12 th	10 th	10 th
November	20 th	9 th	14 th	14 th
December	18 th	14 th	12 th	12 th

Requests from individuals with disabilities who need special accommodations to participate in this meeting or hearing should be made to the City Clerk's Office at 1-906-863-2656 with as much advanced notice prior to the meeting as possible.

The City of Menominee is an Equal Opportunity Provider and Employer



Exhibit B

**A RESOLUTION EXPRESSING CITY COUNCIL'S DESIRE TO ENACT AN ORDINANCE AMENDING
THE MARIHUANA ESTABLISHMENTS ORDINANCE SECTION XX.02(B) TO AUTHORIZE A TOTAL OF
SEVEN (7) MARIHUANA RETAILER ESTABLISHMENTS**

WHEREAS the City Council enacted a Marihuana Establishments Ordinance that limited the number of marihuana retailer establishments in the City of Menominee to two (2); and

WHEREAS due to overwhelming demand for the two (2) marihuana retailer establishment licenses, the City of Menominee obtained more applications from qualified applicants than licenses; and

WHEREAS the City's Marihuana Establishments Ordinance and application process, as well as whether the ordinance and process complies with the MRTMA, MCL 333.27951 et seq, are currently the subject of ongoing litigation that has not been resolved on the merits. Thus, the City Council acknowledges that it is not appropriate to award additional license(s) under that process or in reliance on that process, because the court may ultimately determine that such process did violate MRTMA; and

WHEREAS due to the ongoing litigation, the City Council acknowledges that it is not appropriate to award additional license(s) under that process or in reliance on that process. Instead, the City Council hereby expresses its desire to resolve all pending litigation with certainty by globally settling with all plaintiffs to the litigation and award licenses to each party thereto.

WHEREAS nothing in this resolution prohibits the City Council from amending its Marihuana Establishments Ordinances or policies in the future.

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 Pharm U.P., and NU Group, LLC, if or when the ongoing litigation has been resolved and/or disposed of entirely on the merits.

CERTIFICATION

I, hereby certify that the foregoing is a true and complete copy of the resolution adopted by the Menominee City Council of the City of Menominee, County of Menominee, State of Michigan, at their _____ meeting and recorded in the official liber of the Menominee City Council of the City of Menominee, County of Menominee, State of Michigan.

Dated: _____

Kathleen A. Brofka
City Clerk Treasurer

(SEAL)