

**I. CALL TO ORDER.**

Chairman Werth called the meeting to order at 6:30 PM.

**II. ROLL CALL.**

Present: Chairman Sandra Werth, Vice-Chairman Steve Reno, Secretary Matt Ray, Commissioners Stan Cumberworth, Bette O'Shea, Dennis Griffin, and Ted Taylor

Absent: None

Quorum Present.

Also Present: Robert Vallina, Community Planning Director, Larry Lockwood, Planning Division Head, Lori Beeson, Stenographer, Douglas Bradley, Building/Engineering Department Director, Steven Joppich, Township Attorney

General Public: 26

**III. APPROVAL OF THE MINUTES:**

**MOTION AND VOTE:  
MOVED BY GRIFFIN,  
SUPPORTED BY RENO; RESOLVED TO APPROVE THE MINUTES OF THE  
AUGUST 24, 2010 PLANNING COMMISSION MEETING.**

**MOTION CARRIED UNANIMOUSLY (7-0).**

**IV. APPROVAL OF CONSENT AGENDA**

The Planning Commission received the consent agenda (*please refer to attached*).

**MOTION AND VOTE:  
MOVED BY GRIFFIN,  
SUPPORTED BY O'SHEA; RESOLVED TO ACCEPT THE SEPTEMBER 28, 2010  
CONSENT AGENDA, WITH THE STIPULATION THAT IF THE APPLICANT  
INTENDS ON KEEPING AND NOT DEMOLISHING THE ACCESSORY BUILDING  
FORMERLY USED FOR A CAR WASH ON THE SUBJECT PROPERTY, SITE  
PLAN CASE NO. 321-C IS REQUIRED TO BE SUBMITTED TO THE PLANNING  
COMMISSION FOR SITE PLAN REVIEW.**

**MOTION CARRIED UNANIMOUSLY (7-0).**

**V. Public Hearing**

**Case No. 10-08-01, Teri Ward (Staff Reviewer – Larry Lockwood)**

**Location:** 4300 Heatherstone Drive

**Parcel I.D. No.:** 13-01-252-023

**Request:** Requesting Special Approval under Section 3-603.4(A) of the Zoning Ordinance to allow a Child Day Care to be established in the R-1A, Single Family Residential Zoning District.

**Applicant:** Teri Ward

**Mr. Lockwood** referenced the attached memo and displayed maps depicting the current zoning, master plan, & aerial maps of the subject property.

**Chairman Werth** opened up the Public Hearing at 6:41 p.m.

**Karen Johnston** of 4287 Heatherstone Dr. and **Cheryl Lang** of 4320 Heatherstone Dr. both spoke in favor of Ms. Ward's business and the granting of this special approval.

Hearing no further comments, Chairman Werth closed the comments at 6:43 p.m.

**MOTION AND VOTE:**

**MOVED BY RENO,**

**SUPPORTED BY GRIFFIN; RESOLVED TO APPROVE CASE # 10-08-01 TO ALLOW ESTABLISHMENT OF A CHILD DAY CARE CENTER IN THE R-1A, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT**

**MOTION CARRIED UNANIMOUSLY (7-0)**

**Case No. 10-09-01, Crescent Lake LLC (Staff Reviewer – Larry Lockwood)**

**Location:** 1400 Crescent Lake Road

**Parcel I.D. No.:** 13-22-151-003

**Request:** Requesting Special Approval under Section 3-705.5,Q(1) of the Zoning Ordinance to allow outdoor storage of boats in combination with a Boat Sales and Repair facility in the C-3, General Business District

**Applicant:** Michael J. Kowalski, Kurt Banas

**Mr. Lockwood** referenced the attached memo and displayed maps depicting the current zoning, master plan, & aerial maps of the subject property.

**Commissioner Griffin** requested that if the Planning Commission considers granting the special approval, that it is stipulated that all boat engine repair activities must be completed within the building.

**Commissioner Cumberworth** requested that the applicant identify the property description point of beginning on the plan.

**Chairman Werth** opened up the Public Hearing at 6:54 p.m.

Hearing no comments, Chairman Werth closed the comments at 6:55 p.m.

**MOTION AND VOTE:**

**MOVED BY GRIFFIN,**

**SUPPORTED BY RENO; RESOLVED TO RECOMMEND SPECIAL APPROVAL OF CASE # 10-09-01 TO ALLOW OUTDOOR STORAGE OF BOATS IN COMBINATION WITH A BOAT SALES AND REPAIR FACILITY IN THE C-3, GENERAL BUSINESS DISTRICT IN CONFORMANCE WITH THE SITE PLAN SUBMITTED AND APPROVED AS PART OF THIS CASE, WITH THE STIPULATION THAT ALL BOAT ENGINE REPAIR ACTIVITIES SHALL BE COMPLETED WITHIN THE BUILDING AND THAT ANY CODE ENFORCEMENT VIOLATION OF THIS STIPULATION WILL REQUIRE THIS CASE TO BE BROUGHT BACK BEFORE THE PLANNING COMMISSION FOR REVIEW AND CONSIDERATION OF REVOCATION.**

**MOTION CARRIED UNANIMOUSLY (7-0)**

## VI. PUBLIC INPUT FORUM – MEDICAL MARIJUANA LAND USES

**Chairman Werth** read the following statement:

Before I open this forum for public input, I want to emphasize the following points:

**First**, this body is not here to make a judgment on, nor debate, the medicinal benefits of marijuana. Rather, this forum is intended to provide the Planning Commission with citizen information and views on the following matters:

- The impact medical marijuana land uses may have on the character of:
  - residential zoned areas of the Township if such land uses are permitted in residential areas;
  - office zoned areas of the Township if such land uses are permitted in office areas;
  - commercial zoned areas of the Township if such land uses are permitted in commercial areas;
  - industrial zoned areas of the Township if such land uses are permitted in industrial areas; and
  - the Township as a whole.
- Whether and to what extent medical marijuana land uses should be permitted in residential, office, commercial, and/or industrial zoning districts in the Township.
- Appropriate restrictions on the scope, scale, type, and concentration of medical marijuana land uses within zoning districts where such land uses might be permitted. In order to allow an opportunity for everyone to address the Commission who wishes to, comments must be limited to the matters listed above, each speaker will be limited to a maximum speaking time of three minutes, and speakers need to refrain from repeating statements made by previous speakers.

**Second**, I want to emphasize that a registered patient's use and cultivation of medical marijuana within their own home for their own use is **not** a land use and is therefore **not** a matter under review or consideration by the Planning Commission.

**Third**, speakers must be recognized by the Chairperson before speaking. When you are recognized to speak, please come down to the podium, state your name and address, and direct your statement to the Planning Commission.

**Finally**, I understand that this issue can elicit strong emotional feelings, feelings that may prompt you to strongly disagree with one or more speakers tonight. This does not warrant treating speakers with disrespect. Shouting at or interrupting speakers is disruptive and may result in the removal of the person or persons causing such disruptive and disrespectful behavior.

At this point, I will entertain a motion to accept these guidelines for this public input forum.

**MOTION AND VOTE:**

**MOVED BY GRIFFIN,**

**SUPPORTED BY RENO; TO ESTABLISH CHAIRMAN WERTH'S GUIDELINES FOR THE CONDUCT OF THIS PUBLIC INPUT FORUM.**

**MOTION CARRIED UNANIMOUSLY (7-0)**

**Chairman Werth** opened up the Public Hearing at 6:54 p.m.

**Mary Lindemann** of Lansing, MI stated that she represents Cannabis Patients United and spoke in support of allowing medical marijuana land uses. She stated her opinion that the transfer of marijuana between individuals is a service, not a business. Ms. Lindemann also stated that she supports imposition of a fee per caregiver-patient transfer to raise funds for local governments.

**Tom Lavigne** of Detroit, MI spoke in support of allowing medical marijuana land uses. He stated his opinion that the impact of such businesses would not necessarily be negative. Mr. Lavigne also stated this is a dynamic area of the law and that he believes the McConnell minority opinion should not be given precedence. Mr. Lavigne also stated that he believes allowing medical marijuana dispensaries and compassion clubs will serve Americans with disabilities. Mr. Lavigne also recommends that the Planning Commission consider locating such businesses in commercial zoning districts, not industrial. Mr. Lavigne also referred to a model ordinance he submitted to the Planning Commission for their consideration (please refer to the attached draft ordinance).

**Jim Manning** of Waterford, MI stated that he is employed at the Auburn Hills Police Department and he provided to the Waterford Planning Commission a copy of the report on medical marijuana that the Auburn Hills Police Department submitted to the Auburn Hills Planning Commission (please refer to the attached report). Mr. Manning spoke against allowing medical marijuana land uses. He stated that there are significant flaws in the existing medical marijuana law and that the state legislature should revise the law to eliminate the confusion and conflicts inherent in the current law. Mr. Manning also stated that he is concerned about allowing dispensaries without state oversight and regulation. Mr. Manning referred to the McConnell opinion and stated that it confirms his opinion that the legislature should revise the law. Mr. Manning also stated that distribution of medical marijuana should be regulated and conducted through the same distribution system as other prescribed substances.

**Ann Falter** of Waterford, MI spoke against allowing medical marijuana land uses. Ms. Falter stated such uses should require federal approval and standards before they are allowed.

**Dondi Meitz** of White Lake, MI spoke in support of allowing medical marijuana land uses. She stated she has first-hand experience of how medical marijuana eases pain and she believes it helped her knee heal quickly and cured her cancer.

**Nick Klayo** of Waterford, MI spoke in support of allowing medical marijuana land uses. He stated he believes in the marijuana process and plans on opening a marijuana business.

**Doug Orton** of Brighton, Detroit, MI spoke in support of allowing medical marijuana land uses. Mr. Orton stated he is a representative of many patients in this area and that he has first-hand experience since he suffers from Hepatitis C and uses marijuana to relieve pain brought on by his condition. He believes that allowing medical marijuana businesses is all about providing safe access for patients to obtain medicine. He also stated that he believes this is a civil rights issue.

**Bryan Pelkey** of Holly, MI spoke in support of allowing medical marijuana land uses. Mr. Pelkey recommends that the Planning Commission consider locating such businesses in commercial zoning districts as the best solution. He also supports establishing permit and application processes, along with fees to pay for the process. Mr. Pelkey further stated his opinion that landlords will welcome these businesses as they are the only kind of businesses that are starting up in this bad economy and that patients want somewhere safe to get their marijuana. Mr. Pelkey also stated that he has been waiting six months for the Township to approve these uses so he can open his own medical marijuana business.

**Lisa Plunkett** of Waterford, MI spoke against allowing medical marijuana land uses and stated that she does not want dispensaries or compassion clubs and that medical marijuana should be strictly limited to patients using it in their own home. Ms. Plunkett referred to a California white paper that identified many problems with medical marijuana businesses. Ms. Plunkett asked who would regulate patients growing marijuana in their home?

**Chairman Werth** asked Township Attorney Steve Joppich to respond.

**Mr. Joppich** stated that such enforcement would be through a combination of state agencies and local law enforcement to ensure that such activity was conducted by registered patients.

**Sharon Kennedy** of Waterford, MI spoke in support of allowing medical marijuana land uses. Ms. Kennedy stated she is a medical marijuana patient. She supports allowing dispensaries since she believes they fill a gap for many patients and that without dispensaries, looking for medical marijuana is dangerous. Ms. Kennedy stated her opinion that medical marijuana is safe, organic, and not filled with pesticides.

**Todd Johnson** of Waterford, MI spoke in support of allowing medical marijuana land uses. Mr. Johnson stated his opinion that dispensaries are useful and make it safe for patients to obtain their medical marijuana.

**David Kramer** of Waterford, MI spoke in support of allowing medical marijuana land uses. Mr. Kramer stated a majority of voters supported the medical marijuana act. He also stated his opinion that dispensaries and compassion clubs are a necessity and should be allowed in commercial zoning districts. He further supports establishing regulations such as restricting these uses to individuals possessing legitimate patient and caregiver ID cards, and that children would be prohibited from entering such businesses. Mr. Kramer believes that establishing such businesses would eliminate medical marijuana transfers on the street and in parking lots.

Hearing no further comments, Chairman Werth closed the public input forum at 7:35 p.m.

The Commissioners then discussed establishing an October 5, 2010 meeting to discuss and consider possible approaches and recommendations regarding the regulation of medical marijuana land uses under the Zoning Ordinance.

**MOTION AND VOTE:**

**MOVED BY GRIFFIN,**

**SUPPORTED BY RENO; RESOLVED TO ESTABLISH A SPECIAL MEETING AT 6:30 P.M. ON TUESDAY, OCTOBER 5, 2010 IN THE TOWNSHIP HALL AUDITORIUM FOR THE PURPOSE OF DISCUSSING AND CONSIDERING POSSIBLE APPROACHES AND RECOMMENDATIONS REGARDING THE REGULATION OF MEDICAL MARIJUANA LAND USES UNDER THE ZONING ORDINANCE.**

**MOTION CARRIED (6-1) WITH TAYLOR OPPOSING.**

**VII. ADJOURNMENT OF THE MEETING**

Meeting was adjourned at 7:40 p.m.

**SITE PLANS CURRENTLY UNDER ADMINISTRATIVE REVIEW****1.) Site Plan No. 321-C, Dunkin' Donuts (Staff Reviewer – Larry Lockwood)****Location: 4399 Highland Road****Parcel I.D. No.: 13-22-253-003****Zoning: C-3, General Business District**

This project is a proposal by Dunkin' Donuts to redevelop this former gas station / used car lot at 4399 Highland Road. You may recall that this site was rebuilt for a Mobil Gas station in the early 1990's and more recently used for LaFontaine auto sales.

The applicant is proposing to remove the existing pump island canopy and add two small building additions in order to provide for a Dunkin' Donuts store along with drive-thru service. The plan also proposes an additional 1400 sq. ft. +/- unit for retail sales. The use for this unit has not yet been determined. At this time, the applicant is planning on re-utilizing the former car wash building on the site for product storage. The plan for this redevelopment does not propose any changes in the site access. No variances are being requested for the redevelopment proposal.

**DATE:** 9/22/2010  
**TO:** Planning Commissioners  
**FROM:** Community Planning and Development Staff  
**RE:** Cases Scheduled for the Tuesday, September 28, 2010, Planning Commission Public Hearing Meeting

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**Case No. 10-08-01, Teri Ward (Staff Reviewer – Larry Lockwood)**

**Applicant:** Teri Ward  
4300 Heatherstone Drive  
Waterford, MI 48329  
248-674-2526

**Status of Applicant:** Property Owner

**Location:** 4300 Heatherstone Drive

**Parcel I.D. No.:** 13-01-252-023

**Action:** Requesting Special Approval under Section 3-603.4(A) of the Zoning Ordinance to allow a Child Day Care to be established in the R-1A, Single Family Residential Zoning District.

**Zoning:** R-1A, Single Family Residential District

**Master Plan:** Single Family

**Site Area:** 0.19 Acres or 8401 sq. ft.

**Existing Land Use:** Single Family Residence

**Surrounding Zoning and Land Use:**  
North: R-1A, Single Family Residential (Newberry Little Farms Subdivision)  
South: R-1A, Single Family Residential (The Meadows of Lake Angelus Subdivision)  
East: R-1A, Single Family Residential (The Meadows of Lake Angelus Subdivision)  
West: R-1A, Single Family Residential (The Meadows of Lake Angelus Subdivision)

**Zoning History:** 1950 – 1963: Residential 1  
1963 – Present: R-1A, Single Family Residential District

**Township Utilities:** Water and Sewer services are available to the site.

### **Staff Analysis**

This case by Teri Ward requests Special Approval to operate a licensed child group day care in the R-1A, Single Family Residential Zoning District. Attached, please find a packet of information supplied by the applicant that further explains their plans and experience in this business. The proposed location for this activity is in an established residential neighborhood, the Meadows of Lake Angelus Subdivision.

The applicant proposes to provide day care services for up to 12 children ranging from babies, toddlers and children up to five years of age. The number of children on any given day may vary but the maximum limit for child group day care in a home environment is twelve. The outdoor play area is essentially the rear yard of the home. The property is fenced on three sides and the property features an expanded driveway area for additional parking. The applicant has indicated that the children will be supervised at all times during their outdoor playtime activities.

### **Recommendation**

After considering the applicants history in this business and her relationship within the neighborhood, staff does not anticipate any foreseeable problems for this group day care operation and would recommend that Special Approval be granted in this case.

However, if the Planning Commission agrees that Special Approval is merited in this case it also has the ability to set a time limit for this business activity with any motion for approval. Any approval would therefore be specific to this applicant and expire upon the applicant ceasing the day care business.

If you have any questions on this case or require additional information in advance of Tuesday's meeting, please feel free to contact this office.

**Case No. 10-09-01, Crescent Lake LLC (Staff Reviewer – Larry Lockwood)**

Applicant: Michael J. Kowalski  
2270 Holbrook  
Hamtramck, MI 48212  
313-873-8200

Status of Applicant: Owner

Location: 1400 Crescent Lake Road

Parcel I.D. No.: 13-22-151-003

Action: Requesting Special Approval under Section 3-705.5, Q (1) of the Zoning Ordinance to allow outdoor storage of boats in combination with a Boat Sales and Repair facility in the C-3, General Business District

Zoning: C-3, General Business District

Master Plan: Central Community

Site Area: 1.88 Ac. or 82,244 sq. ft.

Existing Land Use: Vacant

Surrounding Zoning and Land Use:

North: C-3, General Business District (Phil's Cycle Shop)  
South: C-3 General Business District (vacant – formerly TRU-VAL Tubing Co.)  
East: C-3, General Business District (office warehouse and automotive related uses)  
West: (across Crescent Lake Rd.) C-4, Extensive Business District – Towne Centre along with RM-2, Multiple Family Residential – Towne Centre Commons

Zoning History: 1950 – 1963: C-2, General Business District  
1963 – 1972: C-1, Local Business District  
1972 – 2010: M-1, Light Industrial District  
2010 – Present: C-3, General Business District

Township Utilities: Water and Sewer services are available to the site.

**Staff Analysis**

This Case is by Michael Kowalski and Kurt Banas representing Sunset Boats. Sunset Boats recently acquired the former Shuman Lawn Care property at 1400 Crescent Lake Road and are planning on moving their full service boat business to this location. As you may recall this site was developed for the lawn care business in 1990 when the property was zoned M-1, Light Industrial District. In combination with the Township's recent Zoning Ordinance updates, a new zoning map was developed. The subject property's zoning changed from M-1, to C-3, General Business District. This district now requires Special Approval for any outdoor storage proposed by boat dealers.

The applicant's have prepared a site plan for the proposed "change of use" that shows the existing site conditions and their proposal for outdoor storage. No additions or expansions are proposed in combination with the proposed use. However, staff would offer the following comments for discussion purposes:

***Outdoor Storage***

The proposed site plan shows a total of 97 boat storage spaces. Note #10 under the General Notes section of the plan states that no rack storage is proposed for this property.

***Fire Department Comments***

The plans have been forwarded to the Fire Marshal for a review of the proposed outdoor storage. The Fire Department has been in discussion with the applicant and the proposed storage area. The applicant will incorporate any subsequent Fire Department comments into the plan in order to meet fire protection requirements. If Special Approval is granted in this case the plan will then undergo a final site plan review that incorporates any/all Fire Department comments.

***Cell Tower***

This site received approval for a wireless communications tower in 1998. The tower is operational and has several network companies located on it. As part of the Cell Tower approval, an easement was granted to the tower owner for access and maintenance purposes. Although the boat storage plan indicates several boats stalls encroaching into this easement, the plan demonstrates that access to the tower will be maintained.

***Screening and Landscaping***

There is currently an existing 8 ft. high obscuring wood fence along with vegetation that borders the storage yard area. This fencing and landscaping was required to be installed as part of the previous plan for the Shuman Lawn Care project. The fence appears to be in good repair. Since the site has been vacant for a number of years, the landscaping has become overgrown and in need of general maintenance. The applicant has indicated that he will be cleaning up this situation and maintaining it in accordance with the approved landscape plan for this site.

***Barrier Free Requirements***

The parking lot striping has faded and needs to be re-striped. The required barrier free parking space is not delineated and the required barrier free handicap sign is missing.

***Item to be addressed: Install the required barrier free handicap parking sign in combination with upgrading and re-striping the parking lot area.***

**Recommendation**

This site appears well suited for the applicant's business. Although the zoning recently changed from M-1 to C-3, the proposed outdoor storage area has been maintained and is obscured from adjacent properties. The applicants' business plan will help to improve the property which will serve to upgrade and enhance this area along Crescent Lake Road.

The Zoning Ordinance states that the purpose and intent of the C-3, General Business District is to improve the physical appearance and functional character of Waterford's commercial corridors by permitting the development of a broad range of general commercial uses on zoning lots properly scaled and designed to serve broad areas of the Township.

Therefore, subject to satisfactorily addressing the above referenced comments, staff would recommend that Special Approval be granted in this case. Please note that any proposed "future" outdoor display plans would require the applicant to reapply for Special Approval consideration to be reviewed by the Planning Commission.

If you have any questions or require additional information in advance of Tuesday's meeting, please contact the CPD office.

\_\_\_\_\_, MICHIGAN

### PROPOSED ORDINANCE REGULATING MEDICAL MARIHUANA DISPENSARIES

WHEREAS, the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, authorizes a City Council to adopt and amend zoning ordinances that regulate the public health, safety and general welfare of persons and property; and

WHEREAS, the \_\_\_\_\_ City Council has determined that enacting a Zoning Ordinance Text amendment is in the best interests of the public health, safety and welfare of the \_\_\_\_\_ City residents:

NOW THEREFORE, THE CITY COUNCIL HEREBY FINDS:

### Purposes and Intent

1. To implement the provisions of the Michigan Medical Marihuana Act, M.C.L. §333.26421 et seq.
2. To help ensure that qualifying patients can obtain and use marihuana for medical purposes where that medical use has been deemed appropriate by a physician in accordance with Michigan law.
3. To help ensure that qualifying patients and their primary caregivers who obtain or cultivate marihuana solely for the qualifying patient's medical treatment are not subject to arrest, criminal prosecution, or penalty in any manner.
4. To protect citizens from the adverse impacts of unregulated medical marihuana cultivation, manufacture, preparation, distribution, storage, and use practices.
5. To establish a new section in the City of \_\_\_\_\_ Code of Ordinances pertaining to the permitted distribution of medical marihuana in the City of \_\_\_\_\_ consistent with state law.

Nothing in this ordinance purports to permit activities that are otherwise illegal under state or local law.

Nothing in this ordinance restricts rights of patients or caregivers to grow in any place where city building codes or ordinances are not violated. The right of patients and caregivers to grow in their own residences shall not be curtailed in any manner.

### Definitions. The following phrases, when used in this chapter, shall be construed as defined below:

- (a) "Medical Marihuana Patient Collective" or "Collective", means a location for the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of medical marihuana by registered primary caregiver(s) to or for one or more registered qualifying patient(s) for the treatment or alleviation of a debilitating medical condition or of symptoms associated with the debilitating medical condition (as defined under The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d)), and any associated educational programs, supplies, material, or paraphernalia.
- (b) "City" means the City of \_\_\_\_\_, Michigan.
- (c) "Enclosed, locked facility" means a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient.
- (d) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (e) "Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

- (f) "Physician" means an individual licensed as a physician under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.
- (g) "Primary caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.
- (h) "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.
- (i) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.
- (j) "Usable marihuana" means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- (k) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.
- (l) "Written certification" means a document signed by a physician, stating the patient's debilitating medical condition and stating that, in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.



## Medical Marijuana Report to the Planning Commission, Sept. 8, 2010

Chief Doreen E. Olko and Lieutenant James Manning

### Introduction

***Let us begin by saying that we have no opinion on whether marijuana has a medical role or not. As policing professionals charged with the safety and security of this community we have very deep concerns about medical marijuana dispensaries in our community. Those concerns are based in the experiences of other states with legalized medical marijuana. Our research into this subject has led us to a conclusion that to permit and regulate any form of club, cooperative or dispensary operation in the City that involves a transaction of marijuana is not in the best interests of this community and is a violation of federal law.***

This report will cover the issues that we believe to be pertinent:

- Federal and State law
- Exploitation of the Michigan Medical Marijuana Act (MMMA)
- Public Health Risks
- Associated Crime and Community Disorder Issues
- Traffic Safety

### Federal and State Law

In fact, federal law still prohibits marijuana use, possession and distribution. Marijuana is a Schedule I drug under the Federal Controlled Substances Act, along with LSD and heroin. *It cannot be legally prescribed as medicine by a physician.*<sup>1</sup> Because it cannot be prescribed, the MMMA says that physicians can make a “recommendation” which is NOT the same as a prescription. Control of prescriptions, what and where drugs can be prescribed, is highly regulated.

Federal regulation supersedes state regulation. The authorities at the federal, state and local level continue to make arrests and prosecutions of people for the non medicinal use of marijuana.

*“...The United States Attorney General, Eric Holder, has announced that the enforcement of federal law enforcement agencies will target for prosecution only marijuana dispensaries that are exposed as fronts for drug trafficking”*<sup>2</sup>

It is clear to us in our contacts with federal authorities that they do intend to continue to prosecute marijuana crimes but not in cases where there is a legitimate medicinal use by a truly ill individual.

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<sup>1</sup> Marinol, a legally manufactured drug regulated by the FDA, made from THC the active substance in marijuana has been available by prescription in liquid or pill form since 1985.

<sup>2</sup> California Police Chiefs Assn, White Paper on Marijuana Dispensaries”, 2009

California passed the Compassionate Use Act in 1996, legalizing marijuana for medical use and as a result is the state with the longest history. The California Chiefs of Police Task Force on Medical Marijuana published an extensive report entitled "[White Paper on Marijuana Dispensaries](#)<sup>3</sup>" in 2009. It is available on line and is an excellent resource. The California Legislature enacted the Medical Marijuana Program Act (SB420) in 2003 and it took effect in 2004.

## Exploitation of the Law

**Michigan's Medical Marijuana Act does not allow the establishment of dispensaries or distribution of any kind except between a "qualifying patient" and a "primary caregiver."**

Communities all over the state are struggling with what to do.<sup>4</sup> The Oakland County Prosecuting Attorney, Jessica Cooper and Sheriff Mike Bouchard recently conducted raids on two dispensary operations. Judge Cooper stated in the follow-up press conference that she believes dispensary operations are illegal. Her view is that the MMMA carved out a very small exception to the law prohibiting use, possession and distribution of marijuana. She and the Sheriff stated that they regard the dispensaries as illegal and indicated that they intend to prosecute.

We continue to be alarmed and have deep concerns that the spirit and the letter of the law are being exploited creating a danger and a hazard for individuals and the community as a whole. Those concerns are based on the experiences of other states and what we have seen to date, particularly in a visit to a dispensary in Ypsilanti. We urge decision makers to review of news articles available on the Internet detailing the experiences of California and others states for a view of what we may see in the future.

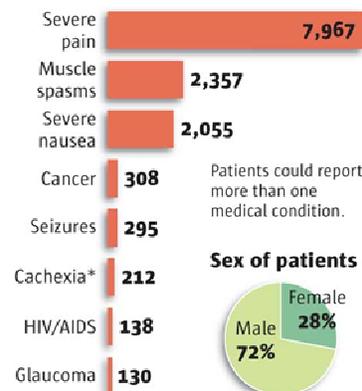
The Michigan Medical Marijuana Act (MMMA) clearly states that a caregiver can only be connected to 5 patients for purposes of providing medical marijuana up to 2.5 ounces at a time. Rule 15 states in part: "A registered primary caregiver may assist not more than 5 qualifying patients with their medical use of marijuana."

## Marijuana Clinics Crop Up Rapidly in Colorado

The Denver Post  
8/19/2009

### Reasons for usage

Almost 90 percent of the people registered to use medical marijuana in Colorado report using it to help control severe pain.



\*Weakness or wasting from severe chronic illness.

Source: Colorado Department of Public Health and Environment

The Denver Post

"And in a development that has health officials on edge, a growing number of those on the registry are men under the age of 30, diagnosed with severe pain. At the end of last year, that category accounted for 18 percent of those on the registry. Now, they make up 24 percent. The state doesn't make public, but does monitor, the names of doctors who sign referrals. And there are doctors whose names come up often enough to cause concern — **like the one who signed 200 recommendations in a day.**"

Source:

<http://www.hemp.org/news/marijuana-clinics-crop-up-rapidly-in-colorado>

Downloaded June 24, 2010

<sup>3</sup> [www.californiapolicechiefs.org](http://www.californiapolicechiefs.org)

<sup>4</sup> "[State Leaders Must Act to Clarify Hazy Medical Marijuana Act](#)," Flint Journal, Sept 3, 2010

What is happening instead is that caregivers are selling marijuana to anyone with a card. This is clearly what is happening in Ferndale. As quoted in the Detroit Free Press on 6/25/10, a co-owner of a dispensary that opened there states, "We're getting customers from all across the state." Caregivers are creating "Cooperatives" to exchange their marijuana. Cooperatives and dispensaries provide a location for a caregiver to sell their "extra" marijuana. Something clearly not covered by the MMMA. Despite what appears to be clear wording in the Act, we've been told by folks in the business that there is nothing that prevents a registered patient from purchasing marijuana from anyone. Whether it is registered caregivers and street dealers.

There is no limit to how many times a day a registered patient can obtain 2.5 ounces only that they not possess more than 2.5 ounces. We've been told by dispensary operators that in their view a patient can have up to a pound of plant material in their possession since their intent is to distill it down to 2.5 oz of liquid form. Theoretically a patient could go from caregiver to caregiver, dispensary to dispensary, as long as they only have 2.5 oz in their possession at any one time.

The MMMA allows caregivers to be "compensated" for their marijuana. Our research is that the market fluctuates regularly with prices ranging between \$350 and \$650 per ounce depending on the strains.

Michigan law denies caregiver status to persons convicted of a felony involving illegal drugs – criminals convicted of violent crimes or sex crimes or virtually any other crime could still receive caregiver status and theoretically dispense marijuana. It is important to note that since this is a licensing action only, the Michigan Department of Community Health can only check Michigan criminal history records meaning that a ***felon from another state could not be denied caregiver status.***

### ***Fraudulent Cards***

The MMMA states cards will be issued with a photograph of the patient and caregiver. To date no cards have a picture on them. Per the Department of Community Health, identification cards will not have photographs added for the foreseeable future. Given this information we have concerns about the potential for counterfeit cards.

#### **Who's Making Money Off Medical Marijuana?**

***"Under Michigan's medical marijuana law, caregivers can supply only five patients. Each patient can have 12 plants. 'But growers who choose to ignore these rules can easily make \$100,000' said Adam Brook, an industry consultant and the organizer of the Ann Arbor Hash Bash... Detroit Free Press June 21, 2010***

***"It's definitely the wild, wild Midwest," said Matthew Abel, one of the state's (Michigan) leading medical marijuana attorneys. Source: Detroit Free Press June 21, 2010***

On their application, patients have the option of checking a box in order to allow law enforcement personnel to obtain information to verify their name and address. Only 50% of Michigan applicants check this box. The means law enforcement can only verify if the card or card number is valid. If a registered patient shares his/her registration number with someone, that person is now able to possess and could purchase marijuana. There is no requirement for a patient to have their MM card on their person while possessing marijuana. Applicants are allowed to claim they are homeless and they are exempt from providing an address on their application.

### ***Medical Referrals***

There is no requirement for an actual relationship between the doctor and patient. One doctor in Colorado signed 200 referrals in one day. Some doctors have opened clinics in several states that have medical marijuana laws. These same doctors represent a high percentage of MM referrals.

The Michigan Department of Community Health, MDCH, is currently 4 months behind in processing applications for medical marijuana patients and care givers. As of August 20, 2010, MDCH has received 51,457 applications since April 2009<sup>5</sup>, issued 21,831 patient cards and denied 6379 applications mostly due to missing information. They are not reporting caregiver numbers at this time since they report that they have no accurate number. People will applications and proof of transmittal of that application who have not been notified that they are denied are told that that application has the same legal effect as a registry card.

In our research which included meetings with persons wishing to establish medical marijuana dispensaries in the city, we have repeatedly heard that what is not specifically prohibited in the law is allowed. ***Nowhere in the statute is there any mention of dispensaries or businesses that provide marijuana for a profit or clubs where members gather to smoke marijuana in storefront operations.***

We do not believe that the people of the State of Michigan intended to create a thinly veiled environment for recreational use of marijuana.<sup>6</sup>

### **Public Health Risks**

**Marijuana use and dispensing is totally unregulated with no quality control of the products offered, clearly a public health hazard.** As enacted, there is no specificity as to the strength, quality or quantity of marijuana to be used for medical purposes.<sup>7</sup>

Dispensaries create alternative methods to dispense marijuana including food products that are injected with liquid forms of marijuana like sticks of butter; brownies, others with catchy names (Buddhfingers, Munchy Way, Rasta Reece's and Puff-a-Mint Pattie). There is no labeling requirement so that people eating marijuana laced food products are alerted to hazards such as the presence of tree nuts in case of nut allergies. In fact there is no required labeling at all to notify a person they are eating food containing marijuana. In California there are cases of poisoning reported. There is no regulated origin so it can be obtained by patients through a variety of sources: health care provider, cannabis club, cooperative or illicitly on the black market. THC, the active ingredient in marijuana, is

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<sup>5</sup> [MDCH website](#)

<sup>6</sup> Lansing State Journal, "[Cannabis Caravan to stop in Lansing](#)," June 5, 2010

<sup>7</sup> Cannabis News, "[Mich. Pot Proponents Cancel Marijuana Contest](#)," Jan. 25, 2010

present in a wide variety of percentages. It can range from 3.5% to almost 40% and is commonly being found at 10%+<sup>8</sup>. The proliferation of hydroponic growing, chemicals and cultivation tips available on the Internet make it clear that there is a continuing quest to increase the THC. We've attached an article for a planned but cancelled "Cannabis Cup" in Ypsilanti which was a competition to produce higher and higher THC content. We are aware that the Silverdome will host a "Cannabis Convention" in late October. We have no details to date on what is planned at this event.

The effects marijuana has on a user vary greatly depending on the strength of the marijuana and method of ingestion among other factors. We have concern that marijuana could never pass the Food and Drug Administration's pure drug standards. During our visit to the dispensary in Ypsilanti we were introduced to an individual named "Peanut Butter." This individual showed us a liquid he claimed he manufactured from marijuana and he claimed it cured a wide range of illnesses and conditions. It was a clear fluid in a regular melamine type coffee cup. He was clearly very excited about his idea that this could be used as a topical medication and he stated that he was interested in testing this product on 100 people. We had no belief or information that this person had any scientific or medical background that would qualify him to perform human trials of this substance. We found it deeply disturbing.

During our tour they showed us a kitchen they were remodeling in the upstairs of the old home they are using as their facility. They talked about their goal of a model commercial kitchen, "all stainless steel." But they were non specific about what they would be using it for. When we asked whether they were subject to public health regulation they said they were not. It was clear that they intended to produce butter or other food products in that kitchen but without regulation by public health to insure that these food items met appropriate standards for human consumption. They also stated that they were not subject to the same rules and regulation as a drug testing and producing facility like Pfizer.

### **Associated Crime and Public Disorder Issues**

**Crime will increase around the business locations and create a class of readily identifiable victims who are ripe for robbery for money and drugs.** The drug culture surrounding marijuana use tends toward violence and criminal activity. The National Drug Intelligence Center reports that growers are employing armed guards, explosive booby traps and murdering people to shield their crops.<sup>9</sup> In California on Friday, June 25, 2010, police were investigating two homicides of employees of separate marijuana dispensaries that occurred within hours of each other.<sup>10</sup> There are many other press reports of the violence:

*"Patients, growers, and clinics in some of the 14 states that allow medical marijuana are falling victim to robberies, home invasions, shootings and even murders at the hands of pot thieves."*<sup>11</sup>

There also is plenty of anecdotal evidence found on a brief Internet news search on June 23, 2010<sup>12</sup>:

- *A man in Washington State was beaten to death last week with what is believed to be a crowbar after confronting an intruder on the rural property where he was growing cannabis to treat painful back problems.*

<sup>8</sup> [National Drug Intelligence Center](#), Average Marijuana Potency

<sup>9</sup> [National Drug Intelligence Center](#)

<sup>10</sup> [Associated Press, "Two Dead in Pot Dispensary Robbery Attempts" June 25, 2010](#)

<sup>11</sup> Associated Press, March 18, 2010

<sup>12</sup> Source: <http://www.msnbc.msn.com/id/35940756/print/1/displaymode/1098> Downloaded June 23, 2010

- *Medical marijuana activist Steve Sarich exchanged gunfire with intruders in his Kirkland, Wash., home near Seattle on Monday, shooting and critically injuring one of them.*
- *In California, a boy was shot to death while allegedly trying to steal a cancer patient's pot plants from his home garden.*
- *A respected magazine editor was killed in 2007 by robbers who targeted his Northern California home for marijuana and money after hearing that his teenage son was growing pot with a doctor's approval.*
- *Robbers killed a security guard at a Los Angeles medical marijuana dispensary in 2008.*

Activists and law enforcement officials say it is difficult to get an accurate picture of crimes linked to medical marijuana because many drug users don't report the crimes to police for fear of arousing unwanted attention from the authorities. But the California Police Chiefs Association used press clippings to compile 52 medical marijuana-related crimes — **including seven homicides** — from April 2008 to March 2009.

In January of 2009 the Auburn Hills Police partnered with the FBI, BATF, Pontiac Police, Oakland County Sheriff, State Police, Bloomfield Twp, probation and parole authorities to combat a growing criminal gang presence in this area. There was and is a rising tide of violent crimes and the resultant investigations are often tied closely to marijuana trafficking. We have seen significant arrests and seizures of large quantities of marijuana and other drugs in this area and enroute to this area.

**In a time of declining tax revenues supporting public services like police, taking on new challenges that have high propensity for crime, violence and disorder is highly counterproductive.**

### ***Increased opportunities for grow operations that create fire and chemical hazards***<sup>13</sup>

A large scale grow operation was recently found in an industrial building in Milford. These operations are a draw for robbery and violence as well as chemical pollution from the chemicals used in the grow operation that are dumped into the storm sewer system and “no code” electrical connections that create fire hazards<sup>14</sup>

**Violence Swirls Around “Legal” Medical Marijuana**  
Missoulain (Montana)  
May 16, 2010

Note: Montana voters approved MMA in 2004 with 62% of voters in favor

*A beating death, an assault and two fire bombings linked to Montana's burgeoning and largely unregulated medical marijuana trade have prompted more calls by law enforcement and advocates for the state to change how it regulates the drug.*

*In the past month, a medical marijuana grower in Kalispell was beaten to death in a drug robbery that authorities say was planned for days, and in Ravalli County, several qualified medical marijuana “caregivers” allegedly assaulted a man with a bat because they suspected him of stealing medical marijuana from a dispensary owned by one of the suspects.*

*Then, this past week in Billings, two medical marijuana businesses were firebombed just before the City Council there considered – and ultimately approved – a moratorium on all new such shops for the next six months. Some blamed the fires on opponents of medical marijuana; others suggested competing providers could have had a hand in the blazes. Police have made no arrests.*

*Tom Daubert, director of Patients and Families United, a group representing medical marijuana users, said licensing, strict oversight and better regulatory controls over those who produce medical marijuana for legal patients will “deter unprofessional fly-by-night opportunists.”*

***“The vagueness of Montana's current law is being deliberately and consciously exploited, and that is not what we envisioned,” said Daubert, who helped promote the medical marijuana initiative.***

*Doctor recommendations are essentially for sale at large “so-called traveling clinics,” Daubert said, referring to the moveable feasts of physicians that some businesses have organized, where people can become certified as patients after a brief visit.<sup>1</sup>*

<sup>13</sup> [Marijuana Grow Rooms](http://www.larryhotz.com/marijuana-grow-rooms/), Denver Area Certified Home Inspector, Carl Brahe, <http://www.larryhotz.com/marijuana-grow-rooms/>

<sup>14</sup> Hometownlife.com, [“Milford Police Find Marijuana Grow Operation,”](#) June 10, 2010

Dispensaries are likely to create neighborhood disorder with loitering, smoking of marijuana in public, increased traffic and street sales of marijuana in the area of the dispensaries.

It is likely that marijuana dealers who obtain a doctor's recommendation to obtain marijuana from the dispensary can then conduct illegal street sales to those who do not have a recommendation.

In other states, legitimate businesses near dispensaries experience problems with perceptions of lack of safety for clients and employees and suffer actual financial loss due to increased criminal activity decreasing client's desire to frequent the legitimate business. The presence of marijuana dispensing businesses contributes substantially to the existence of a secondary market for illegal, street level distribution of marijuana. This fact was recognized by the US Supreme Court (Gonzales v. Raich). Marijuana dispensaries perpetuate a sub-culture that openly supports behavior consistent with criminal activity and publishes instructional material on the web. Examples include:

*"Assume you are under surveillance if you are in any way involved in providing medical marijuana patients."*

*"Do not discuss sensitive matters on the telephone, through the mail, by e-mail or in your home, car, dispensing collectives or the office."*

*"Don't gossip, brag or ask for compromising or unnecessary information about medical marijuana operations and activities"*

*"You should be cautious of theft. Many patients and care providers have been robbed because of the wrong person knowing sensitive information."*

As mentioned above one of the concerns is that there will be a substantial secondary market of marijuana. Here is a comparison among 4 state laws of what can be grown and possessed.



Clearly there is a very high potential that the surplus will be sold on the black market. Merely keeping it on the premises will constitute a magnet for crime and a danger to dispensary, or cooperative or caregiver, the workers and the individuals purchasing.

### How Dispensaries Operate

Based on our research and our visit to Ypsilanti we have learned how at least some dispensaries operate.

A guard or employee may check for medical marijuana cards or physician recommendations (NOT a prescription) at the door. If a person has no recommendation, many offer opportunities to meet with a doctor for an evaluation for a cost of \$150-200 per recommendation. Many types and grades of marijuana are available on the marketplace. No one has suggested that the employees are pharmacists or doctors but in some manner someone conveys what they are offering for sale to relieve what type of medical symptom. In California and at a recently busted club in Ingham County, Michigan baked goods and candy infused with marijuana are offered for sale. In Ypsilanti, although they have no license to produce food products for human consumption, they offered sticks of butter with the suggestion that a patient use one or two pats at specific time periods. They are also a club where people sign up for membership. They estimated that they had about 1000 members. We were also shown an area where they intended to remodel a room as a "VIP room." We did not ask for further detail about what that meant. At a recent meeting, a young man addressed the City Council about smoking clubs. He was asked by the Mayor what a smoking club was and he described a group of people who form a club, pool their money and rent a storefront for the purpose of ingesting marijuana. As with all persons who address the Council, he was asked to give a name but declined.

During the couple of hours we were in Ypsilanti we saw a significant amount of short stay traffic. At the front entrance was being remodeling to put in more security features including a heavier security door. There were other businesses located in the building. On the first floor was a shop selling various devices for marijuana use. (We located the building by spotting the neon sign for this shop, "Puff Daddy's.") We were introduced to another person who also occupied the building with his security business. He told us he was a security consultant for marijuana based businesses. There were also other services like massage available.

There was a large room in the basement of the building where patients were able to smoke or ingest marijuana. In the room there was a smoking device and a couple of video games. This was also the room where the individuals giving the tour planned to give educational sessions for the community at large on the subject of medical marijuana. We were also told that caregivers with excess product over what their patients could use were allowed to come to their dispensary and make it available to others. There were private rooms where patients could meet with caregivers to discuss whatever they wished.

### **Traffic Safety Impacts**

In our visit to Ypsilanti, "Peanut Butter" also advocated that drivers under the influence of marijuana were actually safer drivers, a position that we found very surprising. We did not have an opportunity to hear why he believed this to be true, his coworkers quickly pointed out that they do not encourage people to drive after using marijuana but they cannot prohibit anyone so they expect people to use good judgment.

In 2007 the National Highway Traffic Safety Administration found that 16 % of weekend nighttime drivers (roughly 1 in 6) tested positive for licit or illicit drugs. Moreover, approximately one in 10 high school seniors responding to the 2008 Monitoring the Future Study reported driving after smoking marijuana within two weeks prior to the survey interview.<sup>15</sup>

It is reasonable to assume that around facilities where marijuana is sold and used there will be an increased potential for drugged drivers. Unlike with a driver under the influence of alcohol, there are fewer resources to detect and prosecute drivers under the influence of marijuana. In fact, it is not clear at what point a driver is under the influence—currently Michigan law is in flux about what "under the influence" means in a marijuana case. Until a recent Supreme Court case, Michigan was a zero tolerance state meaning that any evidence of marijuana in a person's system was illegal making a case much easier to prove. As a result of the new case, that is not necessarily the situation complicating the work of law enforcement. Michigan only now is in the process of becoming a Drug Evaluation and Classification Program state. This program expands our enforcement and detection options. Although it is a program at least 25 years old, Michigan will be the 46<sup>th</sup> state to participate; clearly we are not current in keeping our state safe from drugged drivers.

A California research analyst retired from the National Highway Traffic Safety Administration argues that passage of California's legalization initiative "TC2010" may triple the amount of traffic deaths of drivers in California testing positive for marijuana. **His 10 year study shows that the largest increases in fatalities in fatal crashes where the driver tested positive for marijuana occurred over the 5 years following the legalization of medical marijuana in January 2004.** There were 1240 fatalities in crashes where the driver tested positive for marijuana for the five years following

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<sup>15</sup> Fact Sheet, Office of National Drug Control Policy, May 2010

legalization, compared to the 631 fatalities for the five years before for an increase of 100%.<sup>16</sup>

The same study reported that 80% of the marijuana drivers were males, with a median age of 25.

We fear the same will occur here in Michigan. The Dryden Township police chief reports that in the village of Dryden, where there is an operating dispensary,<sup>17</sup> their Operating While Impaired cases have increased 3-4 per month in that very small community. Allowing the proliferation of these dispensaries will exacerbate our traffic safety challenges.

## CONCLUSION

In conclusion, it is bad public policy to allow the proliferation of any type of business which is illegal and subject to being raided by federal, state and/or local authorities. We do not see any positive associated with allowing marijuana dispensaries to operate in the City of Auburn Hills in violation of federal law and are strongly advocating that the City ban any business of this type.

As policing professionals who are charged with providing a safe and secure community, we are deeply concerned about:

- Violation of Federal law
- Exploitation of the Michigan Medical Marijuana Act (MMMA)
- Public Health Risks
- Associated Crime and Community Disorder Issues
- Traffic Safety

The Livingston Daily in an op-ed article published on June 1, 2010:

*"...When Michigan voters approved this proposal, they intended to make sure sufferers of chronic illness could get access to their medicine, even though the medicine was marijuana. There was nothing in the debate or in the proposal to indicate that what voters really wanted was to thinly disguise decriminalization of recreational use. Quite to the opposite, proponents said that was a scare tactic. So it appears that if local units of government want to regulate them—to prohibit smoke clubs and dispensaries outright, or pass zoning rules restricting them to a particular part of town—then they are free to do so."<sup>18</sup>*

We join Sheriff Bouchard in his call to the Legislature to pass laws regulating medical marijuana and clarify for communities how this law is to be implemented. We urge the City to ban illegal dispensary operations in any form.

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<sup>16</sup> Alan Crancer, "[The Involvement of Marijuana in California Fatal Motor Vehicle Crashes 1998-2008,](http://www.cadfy.org.php5-13.websitetestlink.com/test/index.php/component/k2/item/download/2)" <http://www.cadfy.org.php5-13.websitetestlink.com/test/index.php/component/k2/item/download/2>

<sup>17</sup> "[Lapeer County Sheriff's Office says medical marijuana dispensary was giving out too much pot,](#)" Flint Journal, Sept. 2, 2010.

<sup>18</sup> [Livingstondaily.com](http://Livingstondaily.com), June 1, 2010