

**EDMORE VILLAGE COUNCIL
REGULAR MEETING/ADMINISTRATIVE HEARING
UNAPPROVED JOURNAL OF MINUTES
October 10, 2022**

1. **CALL TO ORDER:** The regular meeting of the Village of Edmore Council was called to order on Monday, October 10, 2022, at 7:08 p.m. by **President Gloria Burr**.
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL:** Members present – **Colburn, Griswold, Guild, Rasmussen, Burr**. Absent – **Green, Moore**. Also present: **Justin Lakamper** – Village Manager, **Shirley Drain** – Village Treasurer, **Kerri Peterson** – Village Clerk, **Deputy Tanis** – Montcalm County Sheriff's Department
4. **APPROVAL OF THE AGENDA:** Motion by **Colburn** to accept the agenda with correction moving 10. Municipal Marihuana License Administrative Hearing to 6., after Public Comments. Seconded by **Griswold**. **VOICE VOTE: ALL YES: MOTION PASSED 5-0.**
5. **PUBLIC COMMENTS:** **Dr. Michael Silver** introduced himself to the Council as the former owner of Pinnacle Emporium in Edmore. He is here to show appreciation to the Council for what they have done, and answer any questions that they might have about the matter at hand.
PRESIDENT BURR CLOSED THE REGULAR MEETING AT 7:11 P.M. AND OPENED THE MUNICIPAL MARIAHUANA LICENSE ADMINISTRATIVE HEARING.
6. **MUNICIPAL MARIAHUANA LICENSE ADMINISTRATIVE HEARING:** **Lakamper** reported the reason for the hearing is that Pinnacle Emporium, on the north side of M-46 downtown, is owned by the company KISA Enterprises. They have currently applied for change of ownership. Through that process the change of ownership is treated as a new application and with that they submitted the lease for the location they are currently located. That lease is in the name of KISA Edmore. There is another sub-lease between those two entities. The question was asked why the landlord was not the entity giving the sub-lease. All parties were given time to discuss this difference. There was no sub-lease that was submitted, so we are holding this hearing to decide if there is enough evidence to show that KISA Enterprises are in fact the tenant of 413 E. Main St. KISA Enterprises has provided us with an affidavit from their attorney. It outlines their arguments as to why they are the legal tenant there. **Delph McQueary** (sp?) on behalf of KISA Enterprises spoke that everything at the State level of obtaining a license has been approved. After the acquisition, after the State's approval, we then make sure that the change of control from the acquisition is reported to local municipalities. We brought the up for change of control paperwork to Lakamper and that is when he informed us there wasn't a landlord consent that was in the paperwork from the previous owners. That brings us to the issue today. There is a lease from the landlord and then directly under that there is a sublease. It's very common in cannabis operations. You always want to make sure that the operating licensed entity has full control of the property. KISA Enterprises is the sub-tenant, it is the licensed tenant that will be operating. There is an ongoing dispute from the previous ownership, with the current landlord. We have been in long term discussion with their current council of the need for landlord consent. We believe that they are only using the lack of landlord consent as what they believe to be leverage in this outside litigation matter. The truth is that he knows and he has already passively at least, given landlord consent. Lakamper has paperwork to attest to this. This is not a new enterprise that's been at that location. The enterprise has been operating there for about 2 years. Has been paying its lease, and all of the taxes. Maintenance, and insurance for that property for the last 2 years. Those payments have

come directly from KISA Enterprises, which is the sub-tenant that's been there. They fully acknowledge it, received the payment, and deposited and cashed every check. Without landlord consent, technically he is breaking both State and Federal law, because he actually has cannabis product in the location that would not be able to be there unless he gave landlord consent. He's been to the property, he's seen the property, he knows of the sub tenancy, he received the payments and it's only at this juncture that he has tried to use his lack of landlord consent for this other litigation. We didn't know there was even an issue until Lakamper brought it to our attention that it needed to be incorporated into the existing file. We have tried to have good faith negotiations, including redoing or possibly increasing the lease if that was needed, just to say we're here to play ball. They've completely rejected it. Dr. Silver and his council have done the same thing and they dealt with him for a longer time to try to make it work. We are here to show we want to do everything in good faith with the city, we don't intend to operate or want to without the city's blessing. We see you as our biggest partner to come. We've put a strong investment into this Village and we want to continue operating here. If there is anything more that is in our control, we would be happy to do it. At this point, we are dealing with something that is not in our control. We wanted to illustrate that the outstanding issue is something that was not agreed to in good faith but is something that is being used for alternative measures. Now it is impacting our ability to operate. **Craig Aronoff** spoke that he is the attorney that worked with KISA Enterprises through its original licensing and working with Lakamper and the Council within the Village from the onset. He pointed out that the facility has been licensed for about 18 months give or take. We have had no issues with the licensing, and this has only seemed to have come up because the landlord is trying to use it as leverage rather than act in good faith as he did from the onset, which was allow us to get licensed and proceed. Then as a rift occurs, he we are and he's not cooperating, nor is he here to defend his position. Our in-house council provided an affidavit to you. Our transfer to TerrAscend, was seamless at the State level. There were no problems. **Dr Silver** thanked the Council for everything. He went on to explain details of what their company has done to make the opening easier to help Travis Jensen and BT Phenix. We put the money forward to get this money off the ground from start to finish. We are in this position because Travis was advised he would not be able to be licensed, so the only way to move forward was to utilize our license. The only way Travis could receive rent legally, was for us to operate the store, to begin payments to him. At Travis' request, we opened under KISA Enterprises. We feel this is nothing more than a clerical issue. We have written checks to BT Phenix in the last 22 months in the amount of approximately \$140,000 from KISA Enterprises. Travis has acted as nothing more than a landlord. We feel this is driven by nothing more than greed. He again thanked the Village for their assistance and understanding and help. We appreciate your time tonight. **Colburn** asked for clarification on the attempted eviction in January 2022 that was revoked or dismissed the following month. **Delph** answered that is off the affidavit from KISA's council. That has been cured and he believes they raised the amount of the lease as a result of that. I don't know the details and he's been collecting lease payments after the fact so whatever happened it has been resolved. I will tell you that he has again tried to file an eviction of tenancy just recently. On one hand they do not validate our sub-tenancy, then they say you need to pay us for your lease and because you have not paid for the month of October, we are giving you an eviction notice. We have reached out to our attorney. We are trying to work with them, but we are not getting anywhere. We have stopped payments to them until this matter is resolved. More discussion took place about the affidavit that was given to the Council and details explaining the lease and sub-lease. **Colburn** asked whether Travis was part of KISA Edmore. **Dr. Silver** answered

that was the original agreement. Travis was to put forth a certain amount of capitol at the onset. After the permitting process, Travis admitted he didn't have the money, so KISA Edmore stepped in and paid the costs. Yes, originally he was part of the operating agreement for KISA Edmore with the intent that we were going to get licensed collectively and move forward together. Without the ability to get licensed, and without the capitol, the terms changed. We moved forward and invested every penny. We had negotiated a sale with TerrAscend, Travis and his attorney found out and decided to file litigation. Nothing that holds water, but ultimately it was attempt to get more money that he was supposed to get. At that point we wrote him out of KISA Edmore. We have tried to negotiate with him, but nothing is working. **Colburn** added that he thinks it's a tough case to make when you've been accepting money for several months and you've allowed the operation to run as if that was signed. It doesn't make any sense. When you have these technicalities, you have to look at the intent and the practice. Motion by **Guild** that the Council finds there is adequate permission for KISA Enterprise to operate at 413 E Main St, Edmore. Seconded by **Colburn**. **ROLL CALL VOTE: YES: Colburn, Griswold, Guild, Burr. NO/ABSTAIN: Rasmussen. MOTION PASSED 4-1**

PRESIDENT BURR CLOSED THE MUNICIPAL MARIHUANA LICENSE ADMINISTRATIVE HEARING AT 7:36 P.M. AND RE-OPENED THE REGULAR MEETING

7. **DEPARTMENTAL REPORTS:**

- A. **POLICE: Deputy Tanis** reported Total Investigations 28, Total Arrests 3. Traffic Stops 36, Citations Issued 1, Verbal Warnings Issued 35. Highlights included on September 16th, a vehicle was stopped for having an improper registration plate attached to it. The driver, a 44-year-old Edmore man, permitted a consent search of the vehicle. During the search, methamphetamine was found. The man admitted it was his. He was arrested and lodged in the Montcalm County jail.
- B. **FINANCE: Burr** reported for **Tracy**. This month was spent mostly dealing with taxes. We processed all payments, balanced the tax book, and submitted them to the County. All delinquent taxes will now be handled by them. Updated our SAM registration, which is needed to receive federal money.
- C. **DDA: Lakamper** reported this year there will be a monster mash for the little kids, a movie, and trunk or treat at the Marketplace on Saturday, October 29th. The DDA will also host a decoration competition for Halloween and Christmas this year.
- D. **DPW: Burr** reported for **Andy**. We had 1 cremains and 1 full burial. We have been training the new DPW employee and he is doing well. We have begun our annual sewer flushing and have been jetting any slow runs. We are planning on having Aaron take the water exam in November.
- E. **MANAGER: Justin Lakamper: Lakamper** reported on **Code Enforcement**: Have spoken to the one outstanding business which had not received our correspondence regarding the vacant building ordinance due to an address change. The owner has made significant progress with renovating the inside of the store and has agreed to comply with the registration process. Met with Deputy Tanis about increasing enforcement of vehicle registration. I provided him with a list of known vehicles for him to address through warnings and ticketing. The owner of 139 N 11th Street has regained possession of the property, has had a dumpster delivered, and has begun cleaning the property as of 10/07/22. **Developments**: All the developments previously reported on are still moving along. I would like to highlight the improvements that have been made at 225 E Main. The building was purchased through an ELF loan by the Browns. The property has been cleared and a new façade has been added and is a great

example of the type of development that can be spurred through the ELF Fund and dedicated owners. I have been working with the new owners of the middle school football field on obtaining an easement for our storm sewer drains that run through the property and empty to the north in the Wilson Drain. The new owners had requested to rezone this land to B2 so they could eventually build a storage facility. As I was unable to find any easement on record, I asked the owner if they would give us one. The owner has agreed to an easement, written by Tony Costanzo, which will give the Village the perpetual right to access and maintain that drain. It allows for them to build anywhere on the property but does not require the Village to repair or rebuild any buildings that may be destroyed in the process of maintenance or repair. They were unsure if they would like to ever build a house on the property as well, so it was suggested if they think that could be a possibility, they should create a separate parcel for any potential home before moving forward with the rezoning. They have a copy of the easement, which they intend to sign, and will be considering their options for moving forward with the rezoning.

Fall Cleanups: There was some confusion this year about when the Village's cleanup day was because we also advertised for the Township's cleanup, which led to multiple trash piles being put out on the wrong date. However, the Village's cleanup is scheduled for October 15th.

Main Lift Station: We previously reported that one of the main lift station pumps had failed. It was brought to Jett Pump in Waterford, where they are assessing it for warranty work.

Municipal Attorney: Tony Costanzo, our current attorney, has decided to retire as of January 1, 2023. His practice in Alma will be taken over by Smith Bovill PC. They are a firm out of Saginaw, and they will work out of Tony's former Alma office when needed. Tony will continue to work with us through December, however at that point we will need to either work with Smith Bovill or select a new attorney. I have asked Tony and the new attorney who would work with us to attend the next council meeting. I have not received their hourly rate or any other details of how Smith Bovill works, however Tony has done a great job for us, and he speaks highly of them. We will discuss options at our next meeting. We have until the first of the year to decide.

Newsletter: The Fall Newsletter has been mailed.

Park Equipment: The DPW began installing the new equipment this week. After excavating the site and transporting all the equipment on their pallets to the park, they unwrapped the posts from their protective wraps to find that 5 out of 6 pieces had large scratches on them directly from the manufacturer. One piece even had a bracket welded on upside down. After talking with the company, who said they would warranty all the parts, I had them fill in the holes and move on to installing the workout equipment. I can assure you that we will not work with this retailer or manufacturer again, but they will be sending us replacements. The mulch for the project will be delivered on Monday. The DPW will fill in the areas with mulch and install the swings when we get them. If weather allows, we will still do it this year.

Wilson Drain: Most of the storm water drains in town run out to the Wilson Drain which runs along the railroad bed north of the old football field and then travels northwest towards the sewer ponds. This drain is a large trench. The County has had this whole area dredged to allow for better flow since the existing trench was largely overgrown. After speaking with the drain commissioner, they also dredged approximately 350 feet between the first outlet of the storm water system into the Wilson Drain and a culvert that we own underneath First Street, which diverts water from the neighborhood on the east side of First Street to allow for better flow.

F. **PRESIDENT: Gloria Burr:** Burr reminded everyone of the fall clean-up on Saturday, October 15, 2022. Hopefully we a lot of stuff cleaned up around town this weekend.

8. **TREASURER'S REPORT: Shirley Drain**

- A. TREASURER'S REPORT & COMMENTS:** Drain reported the books are balanced for September. ELF loans – All current. Cash balance is through August, it's a month behind. Cash balances look good. Guild questioned if Averyville Acres payments increase this year. Lakamper stated it increased last year, but he doesn't know about this year.
- B. APPROVAL OF PAYMENT OF BILLS:** Guild moved to approve the payment of the bills. Seconded by Griswold. **ROLL CALL VOTE: YES: Colburn, Griswold, Guild, Rasmussen, Burr. MOTION PASSED 5-0**
9. **COMMITTEE REPORTS:** None.
10. **APPROVAL OF MINUTES:**
- A. REGULAR COUNCIL MEETING September 12th, 2022:** Rasmussen moved to accept the minutes as written. Supported by Colburn. **VOICE VOTE: ALL YES: MOTION PASSED 5-0**
11. **NEW BUSINESS**
- A. CONSIDERATION OF TRANSFER OF OWNERSHIP APPLICATION KISA ENTERPRISE:** WDB Holdings director and CEO Keith Stauffer is applying on behalf of the corporation. They hold the requisite licensure with the State of Michigan and own other marihuana retail shops in the State. They are not proposing any changes to the Pinnacle location at this time and will continue to operate it as Pinnacle Emporium. Motion by Colburn to approve WDB Holding MI, Inc. application for transfer of ownership of the marihuana retailer license held by KISA Enterprises. Supported by Guild. **ROLL CALL VOTE: YES: Colburn, Griswold, Guild, Rasmussen, Burr. MOTION PASSED 5-0**
- B. DESIGNATE JUSTIN LAKAMPER TO CAST VOTE FOR MICHIGAN MUNICIPAL LEAGUE LIABILITY AND PROPERTY POOL DIRECTORS:** Motion by Colburn to designate Justin Lakamper to cast vote for Michigan Municipal League Liability and Property Pool directors. Supported by Griswold. **VOICE VOTE: ALL YES: MOTION PASSED 5-0**
- C. CONSIDERATION OF INSTALLING HANDICAPPED PARKING DOWNTOWN:** Discussion took place among members on best locations for handicapped accessible parking in downtown. Motion by Guild to assign handicap accessible parking at the southeast corner of 4th Street and M-46, on 4th Street on the east side next to the bank, and one in front of the post office door. Supported by Rasmussen. **VOICE VOTE: ALL YES: MOTION PASSED 5-0**
12. **PUBLIC COMMENTS:** Chris Irwin informed the Village council that the Township meeting time has been changed to 6 p.m. It is still the same night as the Village meetings.
13. **COUNCIL COMMENTS:** Burr stated that Rick Rasmussen is asking about the light post being replaced. Lakamper replied that the pole has been ordered.
14. **ADJOURNMENT:** Guild moved to adjourn. Seconded by Griswold. **VOICE VOTE: ALL YES: MOTION PASSED 5-0.**
- President Burr** adjourned the meeting at 8:16 p.m.

Village President

Village Clerk

Approved for Publication

NEXT MEETING: November 14th, 2022