



MINUTES
Special Committee of the Whole
Thursday, September 7, 2017 @ 5:00 p.m.
City Council Chambers

CALL TO ORDER

Council President Spitzley called the meeting to order at 5:03 p.m.

PRESENT

Councilmember Brown Clarke
Councilmember Kathie Dunbar
Councilmember Tina Houghton
Councilmember Adam Hussain
Councilmember Patricia Spitzley
Councilmember Jody Washington
Councilmember Carol Wood
Councilmember Jessica Yorko- arrived at 5:18 p.m.

OTHERS PRESENT

Sherrie Boak, Council Staff
Randy Hannan, Mayors Executive- arrived at 5:15 p.m.
Jim Smiertka, City Attorney
Amanda O'Boyle, Assistant City Attorney
Heather Sumner, Assistant City Attorney
Nicole Maison, City Attorney Office
Sheryl Landgraf
Deb Parrish
Jeff Landgraf
Devin Boehm
Elaine Womboldt
Susie Simons
Stephen Monti
Sam Pernic
Samantha Wilbur
Jason Durham
Rebecca Geller
Aubrey Olton
Suzanne Elms- Barclay
Lee Klein
Bryan Madle
Brant Johnson

John Schneider
Emily Wolkowski
Ellen Dowling
Adel Manuel
Heather Deneau

Public Comment on Agenda Items

Ms. Landgraf – spoke about previous concern with onsite security guard. Spoke about the back ground check, and felt redundant in city ord. since having one at the state.

Ms. Parrish outlined the timeline of Committee meetings, the process of the ordinance, a previously held hearing, and council participation.

Council Member Brown Clarke asked for point of order.

Council Member Spitzley spoke to Mr. Smiertka who advised her that any public comments cannot be derogatory and should tie into the ordinance on the agenda.

Ms. Parrish continued speaking on her opposition to the current ordinance which was distributed prior to the meeting, and asked for a new public hearing.

Mr. Landgraf spoke in opposition to the security guard option in the ordinance previously and was pleased it was eliminated.

Mr. Boehm spoke in support of dispensaries noting his belief that it eliminates any vacant run-down area.

Ms. Womboldt referenced the draft ordinances in front of the Committee and voiced her frustration on the time lines and changes. Concluding that in her opinion it was inappropriate to present the document without public review and comment.

Council Member Spitzley had to reiterate to the public the correct decorum of the public comment.

Ms. Simons agreed with the comments by Ms. Womboldt, provided her own firsthand experiences and asked for more time for the public to review it.

Mr. Monti referred the Committee to Council Member Hussain's recommendations in the packet and agreed with removing "Commission", but then also referred to Council Member Washington recommendations and her suggestion to allow only one "transporter". Mr. Monti spoke in opposition to the capping of the number of dispensaries, and asked for some defined criteria.

Mr. Pernic, with the Young Democrats of Michigan out of Oakland County and voiced a concern on how the ordinance was put together. Mr. Pernic also questioned the number of dispensaries permitted in the ordinance, stating his opinion that patients come to Lansing because they can't get it anywhere else. Mr. Pernic concluded by speaking in support of the medical marihuana access.

Ms. Wilbur listed her firsthand experiences, spoke in support of allowing people the right to choose, and questioned the limited on the number of dispensaries.

Mr. Durham spoke on his personal experience with medical marihuana, and asked the Council to keep the dispensaries

Ms. Geller provided information on her personal experience and spoke in opposition to the regulation of medical marihuana.

Ms. Olton spoke in support of dispensaries.

Ms. Elms- Barclay spoke in opposition to medical marihuana and reminded the Committee that there is already an ordinance that is not being enforced.

Council President Spitzley provided instruction to the public on their decorum.

Ms. Elms-Barclay continued with her opinion on medical marihuana.

Mr. Klein representing six (6) clients in the Lansing area spoke in opposition to the draft ordinance presented tonight and gave his opinion that it is a constitutional violation. Mr. Klein then questioned the required \$100,000 net worth in the ordinance, and asked who would decide "reasonable resources".

Council Member Washington stepped away from the meeting at 5:48 p.m.

Mr. Madle suggested changes to the zoning procedure, asking for a change from 500' to 300' between provisioning centers.

Council Member Washington returned to the meeting at 5:50 p.m.

Mr. Madle continued by questioning the denial process and the "spread-out" of the dispensaries in the City.

Mr. Johnson referenced his earlier written comments and acknowledged the Council for their work.

Mr. Schneider spoke in opposition to restrictions to safe access to medical marihuana.

Ms. Wolkowski spoke about the public comment process this far, and then provided her personal experience in relation to the medical marihuana.

Ms. Dowling provided her personal experience and spoke in support of dispensaries.

Ms. Deneau, noted she was new resident to Lansing moving here from the UP because of the supply of dispensaries. Ms. Deneau then asked why the City does not tax the dispensaries., asked why they would want them closed because her belief is they are viable, and lastly agreed with the testing required in the ordinance.

Ordinance Amendments; Chapter 1300; Regulation and Licensing of Medical Marihuana Establishments

MOTION BY COUNCIL MEMBER BROWN CLARKE TO ADOPT THE ORDINANCE AMENDMENTS TO CHAPTER 1300, REGULATION AND LICENSING OF MEDICAL MARIHUANA ESTABLISHMENTS AS NOTED IN THE DRAFT #2 DATED SEPTEMBER 7, 2017.

It was noted the only changes from the last version were the changes that were recommended from Friday, up to this meeting.

Council President Spitzley invited Mr. Smiertka to provide an overview. Mr. Smiertka noted for the Committee and public that the ordinance under construction for months was Chapter 1300 and established in 2010. The current ordinance up for adoption is a replacement to Chapter 1300 and has zoning and licensing components. There are regulations for medical marihuana establishment's, the 5 types mentioned in the MMFLA and will covers all those that can be licensed by the State in December 2017. The ordinance will include zoning restrictions for those 5 types. The Ordinance follows the Act that says the local City can set the number, zoning and other regulations. If adopted this ordinance will take affect and dovetail with the State law. Mr. Smiertka continued by adding that the ordinance creates an application procedure, where applications will be made during an enrollment period through the City Clerk's office in a period established by the City Clerk. The application will require 26 criteria items and once the Clerk receives the application they will verify all 26 items are attached. No decision will be made at that time, but once reviewed will route it to the enforcement divisions (LPD, LFD, Treasury, Code, Zoning, etc.) Once those approvals are made, the City Clerk will verify a license can be issued, if a State License has been approved. If there is no State license at that time, the City license will be conditional. Regarding the provisioning centers, Mr. Smiertka noted the ordinance would allow 25; 20 in the 1st Phase, then 5 in the 2nd phase. The Clerk will review the applications for the provisioning centers, using the listed criteria and score on a scale of 0-100, and then rank them based on assigned points. The ranking will determine the top 25 of the provisioning centers, and if there is a tie, there will be a lottery. If an applicant wants to appeal their denial, they appeal to the Clerk and the Clerk will determine a hearing officer to listen to the appeal. Mr. Smiertka continued the appeal noting that if the appeal is denied, they can then appeal to the Medical Marijuana Commission. The Commission will only handle appeals and can make suggestions on the rules to Council, but stated again their only role is the appeal and if they decide in favor of the applicant, they will send it back to the Clerk. If it is denied by the Commission, the next resort for the applicant would be court. As for provisioning centers, Mr. Smiertka pointed out the ordinance also speaks to the zoning requirements. The applicant can go to the Zoning Board of Appeals for a variance from the distance requirements if they feel they need a variance. Lastly, Mr. Smiertka pointed out that the ordinance will not have immediate effect, but an effective date in 30 days.

Council President Spitzley asked Mr. Smiertka if a dispensary be allowed to operate during their application process. Mr. Smiertka noted that if the ordinance is effective, they would be in violation because they need a City license and State license to operate. Council President Spitzley then asked about when the applications are submitted before issuing of the licenses, can they still operate. Mr. Smiertka answered it would discretionary and a determination would have to be made by Law, the Mayor and LPD. After the ordinance is in effect, unless they are in operation with the Michigan Medical Marihuana Act, is a commercial activity and they will need a license from the City and the State. Council President Spitzley then posed the question, who would decide when the Clerk will start the application process. Mr. Smiertka confirmed it would be the Clerk's discretion to set the time period, and he can also hire experts to review evaluations.

Council President Spitzley informed the Committee they will take the vote on COW #2 dated September 7, 2017 as stated in the motion on the table, then begin discussions on any of the proposed amendments.

Council Member Washington stated her frustration that she was not given the opportunity to review that draft, and it appears to include the amendments suggested from Council Member Brown Clarke and Spitzley, but not the ones she submitted. Council President Spitzley confirmed for Council Member Washington that a meeting was held with Law and Council President and Vice President to review all the suggested amendments, in turn some were

already added into the Draft 2. Council Member Washington stated she did not see any of her amendments in the document, and could not support the document. Council President Spitzley extended an apology if she offended anyone.

Council Member Wood agreed with Council Member Washington that some Council Members amendments were not included in the recent draft. Council Member Hussain added to the discussion, stating that he understood the frustration articulated by the public and felt Committee cannot go through the legislative process when they are just getting the document. He did understand to some extent that there is some need to move through this, but his opinion was that they can only put so many tools in the hands of the administration. He asked that all Council Members deserves to go through this in a deliberate manner and consider every one of their amendments. Council Member Hussain concluded by asking the Committee to take pause and consider.

Council Member Yorko asked for confirmation on the process currently on the table, and if there was an active motion to adopt COW Draft #2, and if that document was the redlined version of COW Draft #1 that the Committee asked for at the last meeting. Council President Spitzley confirmed, but noted that some amendments had been made per Committee Members suggestions and legal. Council Member Spitzley then clarified to the Committee that the process she was going to move forward on was to take action on the motion to adopt COW Draft #2 dated September 7, 2017. Then the Committee will begin discussing the amendments Committee members have suggested.

Council Member Yorko referred the Committee to page 3 of the document, and asked if a business were to close, at what point would the license go back into the pool. Council President Spitzley admitted that item was addressed by legal in their changes from COW Draft #1. Mr. Smiertka explained that the language Council Member Yorko was referencing was from the State Statue, and if the business closes, the license is still there, and with an annual review, that now closed business would not apply to renew, it would lapse and the license would then go back into the pool. Council Member Houghton asked when the due date would be on the annual renewals, at which Mr. Smiertka stated that would be up to the Clerk.

MOTION CARRIED 5-3 TO ADOPT THE ORDINANCE AMENDMENTS NOTED AS DRAFT #2.

Council President Spitzley moved the discussion to the amendments submitted by the Council Members. She first started with an earlier email she had sent out to Law about the impact at the FOIA and what is protected under a FOIA. Mr. Smiertka confirmed the Medical Marihuana Commission is clear and clear on their rules of procedures, and they were addressed by the City Attorney in the document.

Council Member Wood asked Mr. Smiertka to go over all the changes in Draft #2 that the City Attorney office made.

Council Member Dunbar stepped away at 6:26 p.m. and returned at 6:30 p.m.

Mr. Smiertka started on page 1 pointed out the highlighted sections.

Council Member Yorko and Council President Spitzley stepped away from the meeting at 6:28 p.m.

Mr. Smiertka noted that all the changes were in highlighted yellow in Draft #2, then moved to page 3, lines 40-41 he stated he had added language that came from the State Statue.

Onto page 9, lines 20 and lines 36-38, Mr. Smiertka noted the process on recommendations and procedures. On page 25, lines 35-39 now includes the reference of the Michigan Freedom of Information Act.

Council President Spitzley returned to the meeting at 6:30 p.m.

Mr. Smiertka moved to the changes on page 33, line 27 which spoke to training programs.

Council Member Houghton stepped away from the meeting at 6:33 p.m.

On page 36, lines 34-45, which were not highlighted, but Mr. Smiertka noted that there were changes to those that address accreditation.

Council Member Houghton returned to the meeting at 6:36 p.m.

Council Member Washington pointed out that her amendments were not in the Draft #2 document, and asked to go over what was important to her. She then noted she was in agreement with what was in there, but opposed the redefining of "Park", and was opposed to the proposed zoning changes.

Council Member Yorko returned to the meeting at 6:40 p.m.

Council Member Spitzley began the review of the excel spreadsheet that referenced each section and the name of a Council Member who was looking to make an amendment.

1300.2; Definitions

Council President Spitzley noted in the submitted amendments that Council Member Hussain, Washington and Wood all had amendments to "Public Playground Equipment". A map in the Chambers and in the Committee packet was then referenced that included a layer denoting the parks in the City.

MOTION BY COUNCIL MEMBER WASHINGTON TO STRIKE "PUBLIC PLAYGROUND EQUIPMENT" FROM DEFINITIONS.

Council Member Hussain appealed that a definition is intended to shield the children and it should not be assumed that public playgrounds are the only place they are playing. Council President Spitzley pointed out that it is defined for a location purpose, when there is equipment in the park. Council Member Wood's earlier list of parks was used for the layer on the map. Council Member Wood acknowledged her list came from the Parks Plan, and in that Plan, it specifically says, "no playground equipment". She suggested more could be added to the list. Council Member Houghton asked where the "three or more apparatus" recommendation in the definition came from. Mr. Smiertka answered it was from the regulatory ordinance and is in the Drug Free Zone Act. Council Member Dunbar added to that conversation that the recommendation is from the Alcohol and Tobacco. Council Member Wood asked why they should not be included as part of the definition since most are outside the areas and have no impact by zoning around them. Council President Spitzley answered that since most areas will already exclude provisioning centers near parks there is no need to list them. Council Member Wood appealed again stating if there is no impact than why not include them, and then asked Law what would happen if a playground gets equipment or loses it. Mr. Smiertka confirmed it will be evaluated at the time the application is being reviewed.

Council Member Brown Clarke referred to an earlier discussion on where the language originated, and verified it was used in Alcohol and Tobacco and in the Medical Marijuana Acts. This is being used as the measuring tool with parks.

Council Member Wood stated to the Committee she is interested in smaller buffers. Council Member Dunbar stated there will be two ways to regulate; zoning and the cap on the number licensed. Mr. Smiertka clarified that the playground apparatus information came from the Federal Drug Free Zone Act, which does not define “parks” as a buffered use, but defines the playgoers. The definition he cited was “an outdoor facility open to the public with three (3) or more apparatuses.

MOTION FAILED 3-5.

MOTION BY COUNCIL MEMBER HUSSAIN TO STRIKE “BUFFERED USE” FROM THE DEFINITIONS.

Council Member Yorko asked for clarification on the sections that were reference in that definition. (1300.13 (A) and (D)). Mr. Smiertka explained it was because Section 1300.13 was on Location and Buffering. Council Member Dunbar spoke in opposition to any comparison to the same buffering as alcohol.

MOTION FAILED 3-5.

1300.3; Establishment of the Medical Marijuana; Commission; Membership; Chairperson; Meetings

Council President Spitzley acknowledged her recommendations had been incorporated into the document.

Council Member Hussain withdrew his suggested amendment to completely remove Section 1300.3 which would have removed the Commission completely.

Council President Spitzley referred the Committee to page 9 under 1300.3 and asked Mr. Smiertka to clarify why the highlighted changes. Mr. Smiertka read lines 19-20 and 36-39, noting these were done to change it so an At-Large member could submit a name to the Mayor, the same as a Ward member. This was changed in the document already under line 23-27 on page 9.

Council Member Dunbar asked to take the discussion back to Definitions, page 4, under “Buildings”, line 23.

MOTION BY COUNCIL MEMBER DUNBAR TO REMOVE “GREENHOUSES” IN LINE 4.

After a Committee discussion and concerns from other Committee members to keep “greenhouses” in the definition, Council Member Dunbar amended her motion.

AND ADD “OR GREENHOUSES NOT IN COMPLIANCE WITH THE MMA” AFTER “STRUCTURES” IN LINE 24.

MOTION CARRIED 8-0.

1300.4; Operation without License Prohibited

The Committee reviewed the section, and Council President Spitzley noted that Council Member Hussain, Washington and Wood’s recommendation to strike (B) on page 11 was address in this Draft #2 and removed.

1300.5: License Application Submission

Council President Spitzley pointed out that amendments suggested by Council Member Hussain and Wood in (B) (17), which had to do with zoning. Council Member Wood referred to her amendments, and asked that what is currently represented as “stricken” be added back in starting on page 16, line 36. Council President Spitzley asked Mr. Smiertka to explain why he took it out. Mr. Smiertka stated the ordinance only requires a map, and refers to 1300.13 which details buffering and has the distances. Again (17) only requires a map so the other information is not necessary, it states there is a map that shows the measurements noted in 1300.13. By removing what they show removed in lines 35-2 on page 17, does not change the body of the document. If they want to pursue an amendment, Mr. Smiertka suggested they amend 1300.13.

Council Member Hussain stated his concerns were met.

1300.6: License Application Evaluation

MOTION BY COUNCIL MEMBER HUSSAIN TO AMEND 1300.6(C) AND (D) WHICH WOULD ALLOW FIVE (5) PROVISIONING CENTERS PER WARD, AND REPLACING PAGE 23, LINE 8-28 WITH LANGAGUGEA TO ADDRESS THE SCORING IN THE CASE OF TIE.

Council President Spitzley noted the changes in this draft include a cap of provisioning centers at 25, implemented in a two phase with 20 in year one and additional 5 in year 2. The changes also included a 30-day enrollment period.

COUNCIL MEMBER HUSSAIN MADE A MOTION TO AMEND 1300.6 (D), PAGE 8-28 PER HIS LIST OF RECOMMENDATIONS TO ADDRESS A TIE WITH THE SCORING.

Council Member Wood suggested putting an exact number per Ward for the first 20 licenses, allowing for equal distribution in all 4 Wards. Council Member Dunbar suggested dictating a cap per ward, taking the scoring aspect out of it, and say if there is a large amount qualified in one place it would max out, but if not enough qualified in another Ward, then letting the unqualified in. Council Member Brown Clarke spoke in opposition to the limit per Ward, noting the zoning should determine most of it, and a business owner will do a market study and know where to go. Council Member Hussain agreed with Council Member Wood, noting that the intent of this act is to allow this industry to make sure people with conditions had reasonable access, suggesting maybe it should state “at least”. Council Member Hussain supported 5 provisioning centers per Ward. Council Member Dunbar pointed out that if the Committee cared about access to the patients, the maybe they should not put a cap on them. Council Member Yorko pointed out that there are zoning restrictions, buffering guidelines and a hard cap making it restrictive enough, so she would support lowering the cap.

Council Member Spitzley then read the suggested recommendations from Council Member Hussain; 1300.6 (D), striking language for Phase 2, and inserting “If there are more applicants who meet the criteria set forth in 1300.6(B) than licenses available, the 20 top scoring applicants shall be eligible to receive licenses. In the event of a tie which causes there to be more than 20 top applicants, the tied applicants will be entered a random draw using procedures set by the City Clerk. All license applications must be submitted during the open enrollment periods set by the Clerk.”

MOTION BY COUNCIL MEMBER WOOD TO DIVIDE LICENSES PER WARD AND LIMIT IT TO 20 LICENSES FOR DISPENSARIES.

MOTON FAILED 3-5.

COUNCIL MEMBER HUSSAIN WITHDREW HIS MOTION FOR AMENDMENTS TO 1300.6 (C) AND (D).

Council Member Dunbar voiced a concern with the 30-day time line listed on page 22, line 35 and stated her opinion that people need more time to make a business plan.

MOTION BY COUNCIL MEMBER DUNBAR TO CHANGE THE ENROLLMENT PERIOD IN PHASE 1 FROM 30 DAYS TO 60 DAYS.

Mr. Smiertka confirmed he had a discussion with the Clerk on the change to 30 days, and it was acceptable and believed to be sufficient time. Council President Spitzley added to the discussion by reminding the Committee the Ordinance takes effect 30 days after publication, at which point the 30 days in the ordinance begins. This will allow anyone 60 days for enrollment. The Clerk has the discretion when to set up the application date, and the State will start issuing their licenses on December 15, 2017, and they can't approve without local approval.

MOTION WITHDRAWN.

Council President Spitzley asked to remove (H) on page 27, lines 37-38, noting that the State law does have provisions that it must go in a trunk, so it is given it must be in accordance with state law.

MOTION BY COUNCIL MEMBER YORKO TO STRIKE PAGE 27, LINE 37-38 (H) "DRIVE THRU WINDOWS".

Council Member Wood voiced a concern with this because of vehicles that do not have trunk, and currently the ordinance does state exchanges do have to occur in a private room, and with a drive thru her concern would be that there are kids in the car or others.

MOTION CARRIED 5-3.

Council Member Washington stepped away from the meeting at 7:51 p.m.

1300.7; License Renewal Application

Council Member Hussain had amendments to remove "and the medical marihuana commission" from (D) on page 24 line 22-23 and that was already addressed in the document, along with (E) (5) page 25, to remove "and the medical marihuana commission". It was confirmed his other concern was addressed.

Council Member Washington returned to the meeting at 7:52 p.m.

1300.8; Licenses Generally

Council Member Hussain was the only Member with suggested amendments, and it was confirmed his amendments and concerns were addressed or not a concern since the Commission was approved.

1300.9; Minimum Operational Standards of a Medical Marihuana Provisioning Center

The concerns or amendments suggested by Council Members Hussain and Wood were addressed in the zoning.

1300.10; Minimum Operational Standards of a Medical Marihuana Grower Facility

Council Member Wood amendment was regarding a question on a cap on grow facilities.

Council Member Washington withdrew all her suggested amendments.

Council Member Wood stepped away from the meeting at 7:53 p.m.
Council Member Wood returned to the meeting at 7:54 p.m.

COUNCIL MEMBER WOOD MADE A MOTION TO AMEND THE ORDINANCE WITH A CAP ON GROWER FACILITIES, TO ONLY 2 IN THE CITY OF LANSING. MOTION FAILED 3-5.

1300.11; MINIMUM OPERATIONAL STANDARDS OF A MEDICLA MARIHUANA SAFETY COMPLIANCE FACILITY

Council Member Wood was the only member with amendments, but withdrew any request for action or changes to the current.

1300.12; Minimum Operational Standards of a Medical Marihuana Processor Facility, a Medical Marihuana Safety Compliance Facility, and Medical Marihuana Secure Transporter

Council President Spitzley asked Council Member Wood if her concerns had already been addressed in earlier discussions and in the Draft #2 amendments. Council Member Wood confirmed her amendments had already been made, which was to delete page 35, lines 26 starting with "or secure" and ending with "suites" on line 28.

1300.13; Location of Medical Marihuana Provisioning Centers

Council Member Wood's amendments included changing the location and buffering back to 1,000 feet from property line to property line. Mr. Smiertka pointed out that in 1300.13 (D) Law added in 1,000 feet from property line to property line for provisioning centers. Page 38, lines 31-34. This would make it more restrictive then how it is written currently.

MOTION BY COUNCIL MEMBER WOOD TO AMEND 1300.13 (A)(1) & (2) TO STATE THE SETBACK IS MEASURED FROM PROPERTY LINE TO PROPERTY LINE. MOTION FAILED 305.

Council Member Wood withdrew her amendment noted in her document to strike all (D) under 1300.13.

Council Member Hussain withdrew all his suggested amendments in 1300.13.

1300.14; Location of Medical Marihuana Safety Compliance Facilities, Medical Marihuana Processor Facilities, Medical Marihuana Grower Facilities, and Medical Marihuana Secure Transporter

Council Member Wood withdrew her amendments noted in her document to change the buffering distance to 1,000 feet from property line to property line.

Council Member Hussain withdrew his suggested amendments to limit zoning in 1300.14 (A).

1300.15; Revocation; Bases for Revocation; Appeal of License Denial

Council Member Hussain stated his recommended amendment had been addressed.

1300.16; Penalties; Temporary Suspension of License

No amendments suggested.

1300.17; No Vested Rights

No amendments suggested.

1300.18; Zoning Board of Appeals

COUNCIL MEMBER HUSSAIN MADE A MOTION TO ADD BACK IN THE STRIKENED ITEM ON PAGE 43, LINES 13-15 "THE DISTANCE REQUIREMENTS UNDER THIS CHAPTER SHALL BE REVIEWABLE BY THE BOARD OF ZONING APPEALS FOLLOWING THE CRITERIA PROVIDED IN SECTION 1244.06(C).

Council Member Yorko asked for clarification on if the change is removing the opportunity for the owners to request a variance.

Mr. Smiertka stated this is an option for a variance on the distance of the buffering and to grant a variance they must prove practical difficulties and undue hardships. The standards on page 44 outline the 6 factors, and only apply to provisioning centers. The provisioning centers are to buffering, and an applicant can request a variance from those. An example was provided that if the requirement is 500 ft. and they are 400 ft. they must get a variance. Distance requirements are not subject to an appeal.

MOTION FAILED 3-5.

Council Member Wood stated her recommended amendments for 1300.18 to strike (3) and the criteria were now not being changed.

Council Member Wood asked for clarification on why "legally" was added to page 44, line 10. Mr. Smiertka stated the BZA is set up to examine a situation and application, and if they can find undue hardship. There is no provision in the BZA Board Section on buffered uses and setbacks. This would allow a process for the BZA to use, and he added it has been in the drafts since 2016. This will clarify and provide guidance to the BZA. Council Member Wood stated she did not believe it had been in since 2016, but June this year. Mr. Smiertka informed the Committee that if they removed the language it would be difficult to give due process to an applicant.

The Committee reviewed the criteria and held discussions on "legally" and if there was a need to go back to the operationalizing

Council President Spitzley passed the gavel and stepped away from the meeting at 8:21 pm.

Council Member Wood asked if it also reflects State law. Mr. Smiertka confirmed it is a broad term, and it could be someone violating the moratorium or operating commercially.

Council Member Spitzley returned to the meeting at 8:23 p.m.

MOTION BY COUNCIL MEMBER BROWN CLARKE TO REMOVED THE WORK "LEGALLY" ON PAGE 44, LINE 10 AND ADD "IN COMPLIANCE WITH THIS CHAPTER".

Council Member Wood asked if MMA should also be added, and Council Member Brown Clarke noted that the ordinance always refers to MMA, MMFLA and MTA, so to add it again now would be redundant.

MOTION CARRIED 8-0.

MOTION BY COUNCIL MEMBER BROWN CLARKE TO ACCEPT THE ORDINANCE WITH THE AMENDMENTS APPROVED, RELABELING IT TO DRAFT #3. MOTION CARRIED 5-3.

Adjourn

Adjourned at 8:26 p.m.

Respectfully Submitted by,
Sherrie Boak, Recording Secretary
Lansing City Council

Approved by Committee on September 25, 2017