



MINUTES
Committee of the Whole
Monday, November 13, 2017 @ 5:30 p.m.
City Council Chambers

CALL TO ORDER

Council President Spitzley called the meeting to order at 5:32 p.m.

PRESENT

Councilmember Brown Clarke
Councilmember Kathie Dunbar
Councilmember Tina Houghton
Councilmember Adam Hussain
Councilmember Patricia Spitzley
Councilmember Jody Washington- excused
Councilmember Carol Wood
Councilmember Jessica Yorko-arrived at 5:50 p.m.

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Chris Swope, City Clerk
Brian Jackson, Deputy City Clerk
Heather Sumner, Assistant City Attorney
Debbie Parrish
Elaine Womboldt
Jarren Osmar
Gillian Dawson
Steve Monti
Samantha Wilber
Ms. Walkowski
Steve Monti

Minutes

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM OCTOBER 30, 2017 AS PRESENTED. MOTION CARRIED 5-0.

Presentation

Update on Chapter 1300 Medical Marihuana Establishments (City Attorney and City Clerk)

Council President Spitzley asked Mr. Smiertka to provide any updates on any challenges on the recent petition determination. Mr. Smiertka confirmed there was a challenge to the decision of the City Clerk under the City Charter, which questioned if his determine that the petition that was filed to put the 2017 Ordinance on the ballot was insufficient. The petitioners were given 10 additional days, and they did submitted signatures and filed challenges on the rulings on those signatures. The Clerk, after the 10 days determined that the petition was insufficient. Subsequent to that being made, the petitioners filed a law suit against the City Clerk, mandamus, where a public official can be sued if someone believes there are discretions in their decisions. Mr. Smiertka pointed out that as of the time of this meeting; the City Clerk has not been served, so the action is not joined in circuit court. Therefore, this has no effect and so the City is still on the 2017 Medical Marihuana Ordinance.

Council Member Wood asked since the City has not been served, is there the potential to ask the courts for an injunction to stop the City from using the current ordinance or is that mute because they have already started the process. Mr. Smiertka stated an injunction was not requested, the action is a mandamus. The Court does have defenses to the mandamus and the court could offer options. But since nothing has joined in court, the Clerk is still acting under the Charter.

Mr. Smiertka moved onto the topic of updates from LARA, who has only issued non-bridging advisory opinions. Binding now is Section 205 of the MMFLA Act. They have provided four opinions, one on the capitalization which will be \$150,000 – \$500,000 depending on the type of license. Of that, 25% must be in liquid assets, which includes inventory. The City ordinance only requires \$100,000 of net worth. The second advisory is temporary operation; that being the municipality must authorize temporary operation, and the City Clerk must attest to that. Currently under the City Ordinance there are provisions for conditional licenses, so the Clerk could establish a process. With a conditional license, the City must opt in, but the City is still waiting to see what those rules will be. A third advisory option was on the ability for staking licenses, where applicants can apply for multiple licenses. The City does not address staking of licenses in their current ordinance. Lastly, the four opinions was regarding co-locations; the State will let a grower, processor and provision center in the same location as long as they are separated, however the local ordinance can limit them, and the City ordinance does address that.

Mr. Swope informed the Committee that the 2017 Ordinance is in effect, and unless and until the court directs otherwise, it will remain in effect. On this date, the Clerk announced the 30 day window, beginning at 8 am on November 16, 2017 and will continue through 5 pm on December 15, 2017. The applications have been available on the website along with the scoring criteria. The Clerk's office is still working in the process and finding a business expert, and also working with purchasing on a selection process to obtain the expert. There is a two-step process the applicants go through; the 1st step is zoning, distance, back ground checks, and other items. An application that comes in will go through that process first. Lastly, Mr. Swope stated they have a process where if anyone wants to receive updates on the process they can contact his office at 483-4131 or email the clerk to get added to the list for updates.

Council Member Hussain asked about the process on the Commission. Mr. Swope stated that the mayoral appointments are on the Council agenda for referral later in the evening.

Council Member Wood asked how many pre-applications have been submitted for the growers, processing, testing and transportation. Mr. Swope confirmed zero.

Council Member Wood asked for further clarification on the “stacking” item with LARA, and if here could be multiple growing licenses issued to one person. Mr. Smiertka stated there could be a greater number at one location. Council Member Wood then asked if they have to be separated in any way. Ms. Sumner stated they specifically could put all in one location, but still subject to zoning, and nuisance. Mr. Smiertka added that with co-location provisions per LARA, they have to be separated.

Council Member Wood asked if the Commission is only in effect to look at appeals in a denial of a license, and Mr. Swope agreed.

Council Member Brown Clarke asked in the case of “stacking”, when those applicants go through the licensing process for their multiple licenses, do they have to provide assets of \$150,000-\$500,000 for each, or can they use the same financial information. Mr. Swope acknowledged he would have to review the ordinance, but his first reaction would be they would have to provide it for each application, not allowed to use just \$150,000-\$500,000 for all of them.

Council Member Dunbar asked what the time frame window is for a grower to apply, and Mr. Swope informed the Committee it has no limit.

Council Member Dunbar asked if “stacking” is allowed in the City. Ms. Sumner confirmed that the 2017 Ordinance does not permit a grower to dispense, but grow and processor, and a provisioning center and processor would be permitted. Council Member Dunbar then asked if the zoning is reviewed under per address or per parcel. Mr. Smiertka noted that the ordinance determines location and does not use the term “addresses”, the Clerk will have to make an administrative decisions in the process.

Public Comment on Agenda Items

Ms. Parrish spoke against the definition of “playground” in the 2017 Medical Marihuana Ordinance, and then asked for Council to consider Committee of the Whole meetings weekly when they look at their 2018 Meeting Schedule, also to address different option for public comment to provide better timing for those who use public transportation.

Mr. Monti spoke against the 25 limit in the 2017 Medical Marihuana Ordinance.

Mr. Osmar spoke in support of dispensaries and was opposed to the cap of 25, and requested a higher cap up to 48. Mr. Osmar also spoke about concerns regarding the point systems the Clerk has established.

Ms. Dawson spoke with concerns with the zoning boundaries in the Medical Marihuana Ordinance, and asked Council to consider the local business owners in comparison to outside entities coming to town. Ms. Dawson also spoke on a concern with point system on the licensing.

Ms. Wilber spoke as a patient and voice concern with future access to her medical needs, and asked them to raise the cap on dispensaries to 50.

Ms. Walkowski spoke as a patient and asked for a higher cap on dispensaries to 48-50.

Ms. Womboldt spoke in opposition to the current 2017 Medical Marihuana Ordinance, and felt the public was left out of the due process in creation. Ms. Womboldt encouraged Council to create limits on the other four (4) establishments. Lastly, Ms. Womboldt addressed the Form Based Code setting of a public hearing on the agenda, and asked Council to take adequate time to review the document.

Mr. Sova spoke as a business owner in Lansing, not a resident, and asked the cap on dispensaries to be set at 48.

Council Member Wood asked Law and the Clerk if they could put something on their website that would show a list of locations where applications have been made. Mr. Swope stated with that he would fear there would be a “race for the door”, and first in does not mean best scoring. They do not make any license public when in a pending phase, so he would have to confer with the City Attorney, however his opinion was that it was not viable. Mr. Smiertka confirmed, that under FOIA, there are provisions that would exempt this from disclosure.

Council Member Dunbar brought up the topic of signage, and asked if Council would consider changing the scoring criteria to grant more points if they do not place a sign up. Mr. Smiertka advised the Council that that would be a first amendment issue, however they can place restrictions on how large the sign is. Starting to regulate the content would have an issue and could end up with freedom of speech lawsuits. If that is listed in the criteria in the ordinance that the City is penalizing it could be a deformation of civil rights.

Council Member Yorko referred back to earlier public comments about amendments, and suggested that with all the recent changes from 2017 ordinance to 2011 ordinance and now the possible mandamus, there are too many moving parts to make any other changes. Per the Ordinance, Council has no oversight, the Clerk creates the rules. Mr. Smiertka stated the Commission can make recommended changes based on what they see. Council Member Brown Clarke pointed out that the 2017 Ordinance, the Commission was also given the charge to look at the process over the year and make recommendations. Council Member Swope confirmed there were 4 referrals to the Commission on the Council agenda later tonight, but he was not aware if any were patient advocates.

Discussion/Action:

RESOLUTION – Introduction and Setting of a Public Hearing on the City of Lansing Form Based Code

Council President Spitzley removed the item from the agenda per the Planning and Neighborhood Development Department until a further date. This item will also be pulled from the Council agenda later in the evening.

RESOLUTION – 2018 City Council Meeting Schedule

Council President Spitzley presented the schedule with changes to correct earlier proposed dates which were in conflict to holidays, and also to address the Charter required 26 meetings.

Council Member Yorko stepped away from the meeting at 6:29 p.m.

Council President Spitzley addressed earlier comments on the required public comments and their limits, noting in some cases based on the public present, time limits are set at 2 minutes. Council Member Brown Clarke added that it should also be recognized that where there are passionate subjects going late is not unusual to allow the public comment and a Council the opportunity to know and hear everything. She continued by stating that her belief is that “charged” issues everyone needs to be heard, and if it takes that long everyone needs to be heard, and maybe consider a second meeting. Council Member Dunbar suggested that when there is a passionate topic, ask the public initially if they rely on public transportation and hear them first. Council President Spitzley spoke in opposition to the recommendation, because

the public would not hear all the discussions, and public transportation is not an issue Council can control.

Council Member Hussain proposed also looking at the Charter which states 26 meetings and that needs to be part of the conversation.

Council Member Wood pointed out that new Council Members are not of the conversation, and will be impacted so that should be considered. She also noted that some Council meetings go late because the Committee of the Whole goes late.

Council Member Hussain stepped away from the meeting at 6:38 p.m.

Council Member Wood continued with what she thought was another issue with having Committee of the Whole the same night as Council, and passing items the same night. Council should consider a monthly meeting of just Committee of the Whole.

Council President Spitzley suggested to add to the second WHEREAS, "5:30 p.m. or at another time or date as determined..." Council consensus.

Council Member Hussain returned to the meeting at 6:39 p.m.

Council Member Houghton suggested considering looking into other forms that the public can communicate with Council if they are homebound.

Council Member Brown Clarke reminded the Committee that the Council President can call a special meeting at any time, but when it is written in the resolution the Council commits to those dates, and if things get canceled everyone's scheduled should be considered.

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

Council Member Yorko pointed out to the Committee and public that in the past meetings have started and ended on time, however with many items of controversial nature there is a trend for long meetings, and she noted also during election years the meetings go longer.

Council President Spitzley acknowledged the new Council Members and their time.

Clerk Swope suggested not splitting up Committee of the Whole and Council because some public attend because they can attend two meetings in one night, which provides a convenience.

Council President Spitzley proposed the first meeting to be January 8th because of holidays, vacations and traveling.

Council Member Wood stated she spoke to the recently elected Mayor Schor who informed her he was getting sworn in on January 1, 2018, then voiced a concern with no leadership from January 1 to January 8, 2018. If there was a COW meeting on January 3, 2018, then they should schedule a Council the same night so that if leadership is resolved that night, they can take action at Council.

The Committee reviewed the changes including correcting by removing meetings on Memorial Day and Veterans Day and adding in other meetings to meet the Charter required 26.

MOTION BY COUNCIL MEMBER WOOD TO ADD A COUNCIL MEETING ON THE SCHEDULE FOR JANUARY 3, 2018 AFTER THE COMMITTEE OF THE WHOLE MEETING.

MOTION CARRIED 6-1.

Council Member Swope suggested May 7th as a meeting option.

MOTION BY COUNCIL MEMBER DUNBAR TO ADD MAY 7TH, 2017, REMOVE AUGUST 6TH, 2017 AND ADD NOVEMBER 19, 2017.

Council President Spitzley read the dates of the 2018 meetings as follows:

January 3, 2018
January 8, 2018
February 12, 2018
February 26, 2018
March 12, 2018
March 26, 2018
April 9, 2018
April 23, 2018
April 30, 2018
May 14, 2018
May 21, 2018
June 11, 2018
June 25, 2018
July 9, 2018
July 23, 2018
August 13, 2018
August 27, 2018
September 10, 2018
September 24, 2018
October 8, 2018
October 22, 2018
November 5, 2018
November 19, 2018
November 26, 2018
December 10, 2018

MOTION CARRIED 7-0.

Council Member Spitzley referenced an additional WHEREAS that was added that placed Committee of the Whole meetings on January 3rd, and if needed January 10th and January 17th.

Council Member Yorko stepped away from the meeting at 6:59 p.m.

Other

- City Council Facebook Page Policy

Council President Spitzley stated she is working with Council Staff on the policies for a City Council Facebook page.

Adjourn

Adjourned at 7:04 p.m.

Respectfully Submitted by,

Sherrie Boak, Recording Secretary

Lansing City Council

Approved by Committee on November 27, 2017