



MINUTES
Committee of the Whole
Monday, September 23, 2019
Tony Benavides Lansing City Council Chambers

CALL TO ORDER

Council Member Wood called the meeting called to order at 5:30 p.m.

PRESENT

Councilmember Kathie Dunbar
Councilmember Jeremy A. Garza
Councilmember Adam Hussain
Council Member Brian T. Jackson – arrived at 5:42 p.m.
Councilmember Peter Spadafore
Councilmember Patricia Spitzley
Councilmember Jody Washington
Councilmember Carol Wood

OTHERS PRESENT

Sherrie Boak, Council Staff
Eric Brewer, Council Internal Auditor
Jim Smiertka, City Attorney
Samantha Harkins, Deputy Mayor
Lisa Hagen, Council Legal Analyst
Amanda O'Boyle, Assistant City Attorney
Heather Sumner, Deputy Chief City Attorney – arrived at 6:00 p.m.
Jonathan Solis
Loretta Stanaway
Steve Monti
Melina Brann

MINUTES

MOTION BY COUNCIL MEMBER SPADAFORE TO APPROVE THE MINUTES FROM SEPTEMBER 9, 2019 AS PRESENTED. MOTION CARRIED 7-0.

PUBLIC COMMENT

Mr. Solis asked the Committee to consider more than four (4) micro –businesses, spoke in opposition to the proposed decrease by 2021 from 75-55 licenses, and asked for an increase in consumption licenses from one per ward.

Ms. Stanaway spoke on the budget priorities asking the Committee to consider funding for roads, LFD, LPD and a focus on the needs of the City.

Mr. Monti spoke on the Ordinance Amendments to Chapter 1300, and referenced the State 8.1, Section J to assist areas of the community where things were disproportionate. Mr. Monti also spoke in opposition to the one (1) per ward licenses in the ordinance, speaking on behalf of helping the people he believed were negatively affected by the ordinance.

Ms. Brann urged the Committee to address the social equity of Proposal 1 that would service low income, and stated her opinion on the racial impact.

DISCUSSION/ACTION:

DISCUSSION – Ordinance Amendments to Chapter 1300, Marihuana

Mr. Smiertka outlined the amendments to the existing ordinance on marihuana. He noted it modifies and changes things such as the elimination of the Marihuana Commission and steps for appeals; changes in zoning for buffering differences, making the new ordinance location based. Referring the Committee to the last page, Section 4 spoke to grandfathering language, and earlier in the document, he noted, the amendments speak to new license limits from 25 to 28, and lowering 75 to 55 beginning on January 1, 2021. The increase he clarified was based on competitive language in State law, and new designations such as micro-businesses and consumption areas were limited to one per ward. Mr. Smiertka then spoke to a discussion at the last Council meeting on “social equity”, where there is currently nothing on the record to justifying adding social equity provisions. The City must show a complying interest to survive a lawsuit to put in an allocation on a license based on social equity without adequate evidence, therefore he was advising that if they did it would be subject to a challenge. Council Member Jackson asked if it would be compelling the City interest to have citizens speak at the meetings on the record and encourage the support of allowing citizens to be eligible to expunge their convictions. Council Member Dunbar asked for a preference given first to a resident who has lived in the City for 5 years or more, and her support of the social equity addresses only if person is a resident. She then compared it to Brownfields, OPRA’s and other forms of approvals the Council grants where they encourage a local work force. She concluded by stating she support an amendment to the ordinance that would promote local entrepreneurs and allow people who have been barred by past practice an opportunity.

Council President Wood began the review of the September 13, 2019 OCA memo highlighting major changes (included in packet).

- *Ordinance applies to all Marihuana Operations, including medical and recreational marihuana.* – Mr. Smiertka explained that the OCA has had experience working under the medical marihuana ordinance so these changes would make it applicable for both, with a recommendation for location based.
- *Eliminates the Medical Marihuana Commission, leaving the appeal process with the City Clerk.* Mr. Smiertka explained this was a recommendation from the City Clerk.
- *Adds the following recreational license types: Marihuana Retailer, Marihuana Processor, Marihuana Microbusiness, and Designated Consumption Establishment.* This speaks to the additional licenses.
- *The maximum number of locations for both Medical Marihuana Provisioning Centers and Marihuana Retailers is 28. (Prior version had a maximum number of 25 Medical Marihuana Provisioning Center licenses.)* Mr. Smiertka explained this adds three (3) new additional licenses. He was asked if the medical marihuana licensees can apply for these or if they are reserved for retail. He confirmed anyone could apply. Council Member Jackson questioned the why a cap on medical and not one

on recreational. It was explained that there is a total of 28. The current ordinance did not provide for recreational at all.

- *Maximum number for Marihuana Microbusinesses is one location per Ward; this is a new type of license that grows processes and sells marihuana.* Council Member Wood stated this was done because it was the first time the City would be addressing these uses, and therefore can always come back and amend it.
- *Maximum number for Designated Consumption Establishment is one location per Ward.* This was similar to the bullet point above.
- *Caps the number of Medical Marihuana Grows and Marihuana Grows at 75, but beginning on January 1, 2021 as licenses are denied or issued licenses are not renewed, the total number of locations will be reduced to 55.* Council Member Jackson asked if a person could be denied if someone else was more competitive, and was told that the rules in effect are clear that to be denied they have to violate an ordinance or the State law. Council Member Dunbar asked what it meant by “if a license is not renewed”. Council President Wood stated the license could be transfer as far as they meet all the requirements. If they do not meet all the requirements, then they will not have their license renewed. Mr. Smiertka added that there are transfer provisions in the ordinance.
- *No Medical Marihuana Provisioning Center, Marihuana Retailer, Marihuana Microbusiness, or Designated Consumption Establishment shall permit the sale, consumption, or serving of alcohol.*
- *Regarding buffering, changes public playground equipment to public parks.*
- *Prohibits consumption of marihuana in a public place, except as provided by state law.* It was clarified that the buffering stayed the same, the new ordinance removed “park equipment” in the definition of *Park*.
- *The option to appeal to the Zoning Board of Appeals was eliminated; there will be no variances permitted from buffered uses.* Recommendation from the City Clerk.

Council Member Jackson asked if the restriction on consumption was included for all other social clubs. Mr. Smiertka stated the State prohibits unless they have a liquor license, and Council President Wood added that social club does not need a license to be a social club, this would only effect the clubs that had a liquor license and wanted a consumption license. Examples such as Knights of Columbus and the Elks were given as social clubs where they serve alcohol and if they applied for a consumption license, they could not serve alcohol.

Council Member Jackson asked what the perceived concern was with the buffer from a park. Council President Wood stated the concern was on the potential issues out there.

Council President Wood concluded the review by adding that the majority of the items were recommendations from the Mayor’s office when it was referred.

Council Member Spadafore asked if going forward variances are going to be granted on buffering for current licensees. Mr. Smiertka referred the Committee to page 49 section 4, which speaks to grandfathered. Council Member Jackson provided a scenario of 28 in place, and if no variances, then one of the 28 goes out of business, and a new store comes in, his concern is that there will be no locations to go because the new applicants will have the new buffering. Mr. Smiertka stated after review by the Committee and the Planning Board, the new draft will be non-exclusionary.

Council Member Dunbar proposed an amendment to page 20 adding:

If applicable, a person holding direct or indirect ownership interest of more than 25% in the applicant for a marihuana microbusiness or designated consumption establishment possesses the following:

1. Proof of residency within the City of Lansing for the past five years;
2. Proof of conviction for a marihuana-related criminal offense prior to December 20, 2016; and
3. Proof of registration as a marihuana patient or caregiver under the Michigan Medical Marihuana Act for a period of no less than two years.

Council Staff obtained the document from the OCA officer and made copies for the Committee to review.

Council Member Spitzley proposed incorporating it into the Clerks scoring. Council Member Dunbar concurred, but stated that if there is a new Clerk there is no control over the licensing criteria if it is not in the ordinance. Mr. Smiertka briefly spoke on the 16 lawsuits that the City has addressed and advised the Committee to be as conservative as possible, because this is a new area. Council Member Jackson proposed amending Council Member Dunbar proposal by changing the five years to when the licenses were made possible. The Committee continued the discussion on scoring, scoring with the Clerk, and a residency credit to benefit Lansing residents.

MOTION BY COUNCIL MEMBER DUNBAR TO AMEND THE ORDINANCE WITH

If applicable, a person holding direct or indirect ownership interest of more than 25% in the applicant for a marihuana microbusiness or designated consumption establishment possesses the following:

4. Proof of residency within the City of Lansing for the past five years;
5. Proof of conviction for a marihuana-related criminal offense prior to December 20, 2016; and
6. Proof of registration as a marihuana patient or caregiver under the Michigan Medical Marihuana Act for a period of no less than two years.

ROLL CALL VOTE FAILED 4-4.

MOTION BY COUNCIL MEMBER SPADAFORE TO AMEND PAGE 13, LINE 319 TO STATE "ATLEAST" AND STRIKE OUT "ALL OF".

The Committee spoke briefly on what a felony and what a misdemeanor would be. Mr. Smiertka stated the OCA can make the change and when the Clerk creates the scoring, the OCA will need to review it to make sure it is not arbitrary but advised against the change. Council Member Spitzley added that if it said "at least" the Clerk might get incomplete applications. The Committee was then referred to page 20 line 499 which current states in this amendment "Any other information requested by the City Clerk to assist in the review of the application."

Council Member Spadafore withdrew his motion.

Council Member Washington clarified to the Committee and the public that she voted no on the amendments because the ordinance was brought to Council by Mayor, the Committee on Public Safety reviewed and recommended it, she reviewed it and the amendments were not recommended by OCA. Council Member Jackson asked the OCA why they do not advise it.

Council Member Washington stepped away from the meeting at 6:42 p.m.

Mr. Smiertka explained that there is no compelling interest on the record, there is no requirement in the State law dealing with the topic of social equity, there has been no hearings in evidence before this body to support a proposition for different scoring for those that have had convictions of marihuana. The challenges he stated will come from other licenses.

Council Member Washington returned to the meeting at 6:44 p.m./

Council Member Jackson asked when the hearings were held, and was informed by Council President Wood that all the Committee on Public Safety meetings where the item was on the agenda there was an opportunity for public comment, along with the multiple announcements at meetings of this discussion on this agenda, and the published notice for the required public hearing on September 30, 2019 with vote the same night. Council Member Jackson asked if people need to attend and say their life has been effected, and Mr. Smiertka stated it is not just one person but a discussion on the record to show it has been debated.

Council Member Spitzley spoke in support of the scoring handled by the Clerk, and referred again to page 20 line 499.

Council Member Dunbar spoke in support of the City of Lansing resident getting preference on a license, noting that it would not matter whether the Clerk determined it or the Ordinance each could be challenged. Mr. Smiertka assured the Committee that the Clerk's criteria has to be related to the ordinance.

The discussion was concluded.

RESOLUTION– FY2020/2021 Budget Priorities

Council Member Spadafore referred the Committee to page eight, d) which would address the recent discussion at Committee of the Whole on the Façade grant, now adding back in the intent to have the policy and guidelines reviewed annually by Council.

Council Member Jackson referred the Committee to page 8 e) which would purse the interest of a Sustainability Coordinator, but he added he will be bringing additional language to the next meeting to address the deliverables and action in addition to what was listed.

Council Member Spadafore informed the Committee that the Committee on Public Service had reviewed the adopted Board of Public Service recommendations for Budget Priorities, and the Committee took action to support including those into the FY2020/2021 City Council Budget Priorities.

Council President Wood presented the Committee with a document they received at the start of the meeting from the Disability Network on their accessibility study of all City park on age-friendly accessibility. She recommended the Committee consider adding the document to the Budget Priorities tasking the Parks Department to review when prepare their budget. She concluded by confirming the Committee on Public Safety reviewed Draft #3 and had not amendments. Council Member Spitzley stated Ways and Means Committee will review Friday, September 27, 2019.

Council Member Spadafore asked staff to add the Disability Network report to the next Committee on Public Service agenda.

Council President Wood asked that any recommendations be submitted in writing to the Council Office Manager before the next meeting so all Council Members can review them before the Committee meeting where they have to take action; September 30, 2019.

Other

No Other topics of discussion.

ADJOURN

The meeting was adjourned at 6:58 p.m.

Respectfully Submitted by,

Sherrie Boak, Recording Secretary

Lansing City Council

Approved by the Committee on September 30, 2019