



MINUTES
Committee on Public Safety
Friday, December 2, 2016 @ 3:30 p.m.
City Hall, Council Chambers

CALL TO ORDER

The meeting called to order at 3:30 p.m.

ROLL CALL

Councilmember Carol Wood, Chair
Councilmember Adam Hussain, Vice Chair
Councilmember Kathie Dunbar, Member- absent

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Mark Dotson, Deputy City Attorney
Dick Peffley, BWL
Michael Tobin, Emergency Management Chief LFD
Chief Talifarro, LFD
Marshaun Blake, LFD Fire Marshall
Daniella Farrell
Harriet Clawson
Teisha Doyle
Lauren Delcamp
J. Richter-Bolz
Mary Ellen Purificato
Jason Durham
Gowoon Lee
Steve Green
Kelly Brown
Elaine Womboldt, Rejuvenating South Lansing
Kyle Summrall
Ricky Brown
James McGillie
Claude Beavers
Jason Durham
Debbie Garvey
Jacara Embry
Tasha Embry

MINUTES

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE MINUTES FROM NOVEMBER 17, 2016 AS PRESENTED. MOTION CARRIED 2-0.

PUBLIC COMMENT

No public comment at this time.

DISCUSSION/ACTION:

Emergency Management to discuss weather preparation for Silver Bells

Councilmember Wood asked the LFD for a presentation on how they prepare for weather events such as Silver Bells.

Chief Talifarro stated there is an extensive process regarding planning and it begins as soon as the last event is over to determine what worked well what changes need to happen for the future events. There is a difference between this event similar to Common Ground and Silver Bells, because Silver Bells is not held in a confined space.

Emergency Management Chief Tobin outlined the 2016 plans which he stated began in December 2015 after that event and the event encompasses over 14 blocks in the downtown area. The LFD was in contact with the National Weather Service 72 hours before the event, and at no time did they ever get any warning until 2 pm that day, 3 hours before the event. At 5:30 p.m. they were informed any storm was 100 miles away. When the LFD plan for events they look at every aspect, including law, medical emergencies, and any high profile situation. The biggest concern has always been cold temperatures, and snow so it was unusual situation to have a severe thunderstorm. When the call came at 5:30 p.m. that the storm was 100 miles away, they began discussions, but because the scope of the event is a vast area, they did not create an evacuation, because most visitors/residents had already started to leave on their own or seek shelter from the rain. Chief Talifarro added that the LFD does plan for all events, and based on recent meetings they have planned for what can happen next time.

Council member Hussain noted he had not heard from any residents or knew of any injuries or issues. Fire Marshall Tobin confirmed there were no injuries related to the weather.

Councilmember Wood asked about their plan for the disability viewing area and complaints she had gotten that no one was assisting them when the storm hit. Chief Tobin confirmed that area is part of their plan, and there is significant staff to offer assistance. Most people reacted once it become too significant, people take care of their own.

Councilmember Hussain asked about potentially seeking out alternative dates in the future based on the recent weather patterns of warmer falls, moving the event into December. Mr. Peffley confirmed they had not, but would be open to suggestions, and can look at future dates and time.

Home Occupation Ordinance

Councilmember Wood asked the Fire Department Chiefs if they had any comments on the topic or witnessed anything they think the Committee should be aware of.

Fire Marshall Blake acknowledged they do not classify specific home grow fires, but do note fires that are electrical in nature, however LFD has seen an increase in electrical fires over recent years. The fires are usually limited to specific rooms. The fires he referenced were a result of a power surge, not anything occupied by an explosion. Lastly, Mr. Blake confirmed

they are not required to report their business so these could be going on without the LFD knowledge. It was also noted that if a residence is producing over 3,500 KWH it implies they should have more than a 110 watt service in the building.

Councilmember Wood asked the LFD if statistics continue to increase if they could then research and indicate if it was the electrical from the grower. Fire Marshal Blake state they could, Chief Talifarro added that they can investigate and if it is in a house, and if it was determined to be an electrical overload, it would be deemed an electrical fire. However, the LFD does not want to track grow operation, hair shop, etc. The LFD wants to make sure the electrical loads are correct, and permits are pulled to upgrade if necessary. Any determination on the proposed 3,500 KWH in the ordinance would be better explained by the BWL.

Councilmember Wood asked whether there has been an increase of electrical fires in the City. Fire Marshal Blake confirmed there had been since 2013. Chief Talifarro pointed out that prior to the State law on medical marihuana and home grows, and caregivers, some activities were illegal, so some people were less inclined to do it. When the State law changed allowing for medical use, and allowing caregivers, then there were more people engaged in that activity.

Councilmember Wood asked if there is anything under the maintenance or the International Fire Code that addresses residential electrical use. Fire Marshal noted it does not speak to residential use, but potential for an electrical overload. Chief Talifarro added that the LFD is doing ongoing research, and with items always changing, experienced communications and however many respects have not been towards the residential.

Councilmember Wood asked about the recommended change from 5,000 KWH to 3,500 KWH. Mr. Peffley answered that BWL met with engineering to see what the distributor was designed for. BWL can supply 3,500 KWH per month and not overload the Board's equipment. Anything over 3,500 KWH per month will overload the system and can damage the equipment. BWL will upgrade a resident's service at the owner's request. A transformer feeds 3-10 houses depending on the neighborhood, so BWL feels comfortable stating that anything over 3,500 KWH is a hazard to BWL equipment.

Councilmember Hussain asked if the information was evidence based, and reminded that BWL at the last meeting would research the matter and calculate recent home fires. Mr. Peffley confirmed he did reach out to the LFD and asked for a list of home fires over the last 2 years and determined that 6 of them were electrical related. The BWL engineers stated that all six (6) exceeded 3,500 KWH consumption levels.

Chief Talifarro then stated that if wattage caused the problem with BWL equipment, then they are consistent points of concern. Regardless if it is a home occupation or home grow operation, even if someone installed a commercial kitchen, it would still represent the same fire hazard. With all the thresholds noted, the owners can upgrade.

Mr. Smiertka began the review of draft #2 of the ordinance amendments, clarifying for the Committee and the public the amended changes for any home occupation, as defined in the zoning ordinance and referenced here. It is not focused on caregivers, caregivers is one of the occupations.

Councilmember Wood stated that this is not part of the zoning ordinance, but adding Home Occupation under Code Compliance, which was confirmed again by Mr. Smiertka adding that there is no necessity for Planning Board review. He also explained there are no changes to the Zoning portion of the Home Occupation Ordinance. Beginning on page 1, line 6-8 which were structural changes adding "per month" after 3,500 KWH, and this same change was

made wherever this claim appeared again in the ordinance. This appears in line 17-18, and line 34-35.

Councilmember Hussain asked for clarification in the ordinance on the odors on property line and the ability to enforce. Mr. Smiertka confirmed it does reference the subject's property line, the sidewalk it is not their property line.

On Line 61-62 addresses the civil infraction penalty to be set by Resolution. Mr. Smiertka noted that the codified ordinance of the City requires civil infract by ordinance. So if it is not enacted, it is \$150 for first offense.

Councilmember Wood asked if they register do they have to have an inspection, and since there is no fee set yet by Code Compliance for these type of inspections, the resolution will give the Council the ability to add a fee. Mr. Smiertka clarified that the fee does not have to be in the ordinance, but all fees can come to Council in a group. Therefore any new fees with Code Compliance, this can be added to that fee structure.

Councilmember Wood asked if with the registration if they just list only the names and address it would eliminate the problem of declaring the type of business. Mr. Smiertka confirmed that topic is covered on line 45 on page 2 then again on line 56 on page 3. The intent is not to look at a particular home occupation, but the fact that there is a home occupation and exceeds the limits. At that point there will then be contact with the home owner. Only in extreme cases, where other measures would need to be taken and court orders would be searched.

Mr. Peffley stated that BWL customer records are private and they will not release information without a subpoena. BWL plans in this process are to look at this ordinance for anything over 3,500 KWH they will notify the customer and give them the option to correct this before they take action.

Councilmember Hussain asked for confirmation that there was no piece of the ordinance that violates a person's rights for search and seizure. Mr. Smiertka noted that clearly an inspection of the building falls under the civil infraction ordinance. He again noted that there is no mention of medical marihuana in this ordinance it applies to all home occupations. In regards to Medical Marihuana, the City Attorney's office has been reviewing case law on it, in regards to what other States are struggling with.

The Committee had no further amendments.

MOTION BY COUNCIL MEMBER HUSSAIN TO SET THE PUBLIC HEARING FOR JANUARY 23, 2017 FOR THE ORDINANCE AMENDMENTS TO THE HOME OCCUPATION ORDINANCE AS PRESENTED IN DRAFT 2. MOTION CARRIED 2-0.

City Attorney Office Update

Commercial Medical Marihuana 60 day suspension analysis

Councilmember Wood referred back to a letter sent to the Planning Board 60 days ago from the City Attorney office that asked for an extension so he could do further review. December 4th would be the end of the 60 days. Mr. Smiertka confirmed that he had written a letter to the Mayor's office and the Council President but did not, and does not know how it was presented to the Planning Board at that meeting 60 days ago. His request at that time was to continue the research on the new laws, State Bar Medical Marihuana case law and ongoing decisions in other States. Currently he is evaluating the new State Statue with respect to areas that may not be necessary to include with the City of Lansing. Currently the State is bidding tracking systems, the discussion on labeling is being done by the State Statue, and there are additional

areas under discussion, therefore these areas will not be needed in the City ordinance. The City Attorney office has conducted group interviews with interest groups, the City Clerk on what they will need and their role in the process. Mr. Smiertka stated that the Clerk's office could be looking at 4-5 months to implement and process applications if they proceed as the ordinance is drafted at this point. He added that if the ordinance currently on the books is modified so the criteria can be covered by the State Board, it could be eliminated from the draft City ordinance. Mr. Smiertka stated his opinion that he foresees the State rules to occur in the beginning of January 2017. This Board will fill its appointments by the end of December and begin to meet in January. Lastly the Planning Board will provide input and their next meeting is December 6th, however Mr. Smiertka was not aware if the item was on their agenda.

Councilmember Wood and Hussain asked if Planning Office had confirmed it would back before the Board at their next meeting. Mr. Smiertka stated his office was not asked for any input yet from the Planning Board for this upcoming meeting. Councilmember Hussain asked Mr. Smiertka to reach out to the Planning Board.

Medical Marihuana Moratorium Log

Mr. Dotson approached the Committee on an update on the log, stating they have segregated the log out, and will forward to them the most recent version. Since there was nothing distributed, Mr. Dotson noted the only formatting changes from the last meeting were with the separation from home issues and dispensary moratorium violations. Mr. Dotson went on to state that the only complaint his office had received from the last meeting was a repeat complaint and a letter will be sent out the week of December 5, 2016.

Councilmember Wood asked that Law continue to look at all those that come in. Councilmember Hussain asked if Law was still waiting on the lease and utility bills from "Lansing Tribute". Mr. Dotson stated they were not waiting.

Councilmember Hussain then asked if "Hello Wellness" was open yet. Mr. Dotson stated it was not, but has not called there in a week. He confirmed he would take note to follow up. Councilmember Hussain asked Mr. Dotson, for an affidavit what area are they attesting to. Mr. Dotson confirmed it would be if they are a continuation of a business and not a new business, or new name. They are attesting to when they started, and utility bills depending on the circumstances.

Councilmember Wood asked if the letters were sent on the odor complaints. Mr. Dotson stated the only letters that go out are to a confirmed odor issues, so if Code doesn't come back with and odor issues, then law does not send a letter. Councilmember Wood asked if they were still looking at the "smell" equipment. Mr. Dotson acknowledged they did look into it, but will let Council make the final determination, and his communication on the opinions of using it or not, have concurred a person should perform the test not equipment.

Councilmember Wood referenced other nuisance situations where code compliance sends out a letter on the complaint to the owner and offering information if they call the Code office. Mr. Dotson was not aware of this practice through zoning, and Mr. Smiertka stated a complaint can be filed with the City Attorney office on this odor nuisance, and they can then talk to the individual, gather facts, send a letter and if needed, set up a conference.

Councilmember Wood asked that the proposed practice just introduced by Mr. Smiertka be address the current list of complaints, and Mr. Smiertka and Mr. Dotson confirmed.

Public Comment

Ms. Farrell spoke in opposition to the ordinance and stated her opinion that the ordinance was in violating their rights.

Ms. Clawson asked the Committee to consider the other odors in the area such as food, and asked for more work on the ordinance to be done before action.

Ms. Doyle spoke in opposition to the ordinance and support of medical marihuana as a patient and caregiver.

Mr. Durham spoke as the Vice President of the Ann Arbor Sub-chapter of *Normal*. Mr. Durham spoke on the electricity needed for the home grower in comparison to other household appliances. Mr. Durham also asked the Committee to consider that it was stated there were only 6 fires in 2 years. Mr. Durham stated lastly that he was opposed to inspections.

Mr. Green spoke in support of better planning for the Silver Bells event. Mr. Green then spoke in opposition of the enforcement of odors on medical marihuana with his opinion there are just as many odors from food. Lastly he stated his opposition to annual inspections.

Mr. Beavers acknowledged the Committee for their work, asked for future meetings to be on CityTV, and asked for clarification on the difference between medical marihuana and recreational use. Mr. Beavers also asked for the limitation on the number of dispensaries in the City.

Ms. Garvey spoke in support of the ordinance amendments, and asked for further enforcement on landlords.

Ms. Brown spoke in support of an ordinance that represents the growers.

Ms. Womboldt spoke in support of the ordinance, and asked for clarification on Section 1460 noted in the ordinance. Councilmember Wood clarified it is in addition to the current zoning, and this draft will be added to code compliance section of our ordinances.

Mr. Brown outlined his opinion on what amount of electricity is needed for a home grower, and asked about the enforcement of odors from home growers who grow outside. Last Mr. Brown asked when the moratorium would be lifted. Councilmember Wood stated it would not be lifted until they have an ordinance which has been adopted by City Council.

Mr. Williams stated his frustrations as a landlord in renting when there are odors in adjoining units.

Ms. Miles spoke in opposition to the odor enforcement that is currently being done and asked the Committee to protect everyone's rights.

Mr. Covert stated his opinion that the Committee needs to look at all home occupations, and spoke in opposition of in home inspections.

Ms. Purificato spoke in support of the ordinance.

Councilmember Wood reminded the public the next meeting will be Friday, December 9, 2016, and the Ordinance amendments from this meeting will heard at a public hearing on January 23, 2017.

ADJOURN

The meeting was adjourned 5:10 p.m.

Submitted by, Sherrie Boak,

Recording Secretary

Lansing City Council

Approved: December 16, 2016