



MINUTES
Committee on Public Safety
Wednesday, February 15, 2017 @ 3:30 p.m.
City Hall, Council Chambers

CALL TO ORDER

The meeting called to order at 3:33 p.m.

ROLL CALL

Councilmember Adam Hussain, Chair
Councilmember Carol Wood, Vice Chair
Councilmember Tina Houghton, Member

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Brandon Waddell, City Attorney Office
Tammy Stein
Travis Pollock, AZ Premier Mgt.
Kathy Miles
Jon Miles
Neil Vora
David Dodson
Rich Hall
Jim Osburn
Mary Ellen Purificato
Kevin Pybus
Stan Shuck
Paul Samways, CPA
Jim Osburn
Nick Bruan
Stephen Monti
Ann Ordaway
Ted Wilson
Steve Green

MINUTES

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM FEBRUARY 1, 2017 AS PRESENTED. MOTION CARRIED 3-0.

PUBLIC COMMENT

Council Member Hussain offered a public comment time slot for those that could not stay till the end of the meeting.

Mr. Pollack represented himself as a licensing firm that is helping the facilities get licensing. He spoke in support of recent version, but asked the Committee to look into zoning changes, citing HB 4209, and then spoke in support of letting similar uses cluster in one location. Council Member Wood asked Mr. Pollack to provide his bullet points to the City Attorney office for evaluation.

Mr. Samways spoke on the financial aspect with his experience as a CPA and his clients. He noted there is nothing in the Ordinance that speaks to income tax to the City; the IRS has no statute of limitation so City can do the same. Mr. Smiertka noted that there are provisions for the business plan submission which could include funds, and there is also a standard the applicant can have reasonable funds and working capital to operate. Mr. Smiertka also pointed out that there is a default provision if you don't pay taxes to the City, then you are in default. He then asked Mr. Samways how he expects the City to collect income tax if the business can't have a bank account. Mr. Samways stated his understanding is that there are some financial institutions that are tolerating it, and he plans to go after the credit unions to make the compliance oriented.

Mr. Monti voiced his concern on the buffering zone asking the Committee to consider reducing the buffering zone to 300-100 or stream line to not overburden the City Clerk.

DISCUSSION/ACTION:

ORDINANCE – Medical Marihuana Licensing

Council Member Hussain read the introduction of the Ordinance as written; An ordinance of the City of Lansing, Michigan to replace Chapter 1300 of the City of Lansing codified ordinances in its entirety; to provide for the regulation and licensing of medical marihuana establishments; to establish buffering, land use and zoning requirements attendant thereto; to protect the public health, safety, and welfare of the City of Lansing; to set licensing fees for the purpose of defraying the costs associated with the implementation and enforcement of the provisions of the chapter; and to provide penalties for violations of the chapter. Council Member Hussain then outlined the time frame where in late 2016 there was 6a Draft which was unique and anticipated pending State legislation being signed into law. That draft was moved as approved from Public Safety to the Planning Board in October, 2016, the same time the Governor signed 3 points into law. At that Planning Board meeting the City Attorney asked for 60 days to make it comport to new State law. In December, 2016 this Committee received word that there would be changes, and therefore was pulled Draft 6a from the Planning Board. Currently the Committee will not look at the drafted noted "2017 February 9 City Attorney". Council Member Hussain outlined the plan for this meeting, that being not going through the ordinance line by line, but getting an overview from Mr. Smiertka, looking at the recent maps. It was confirmed the City will not issues licenses until the State issues licenses. Council Member Hussain's goal as Committee chairperson is to have the ordinance review and ready to set the public hearing within 3-4 meetings.

Council Member Wood asked Mr. Smiertka to relabel the recent version of the Ordinance as Draft 7. Mr. Smiertka admitted he did not use #7 because of the confusion with the earlier draft 7 referenced and submitted to the Planning Board by Dykema. He agreed to rename the recent version to "City Draft #7".

Mr. Smiertka began by informing the Committee his process which included conversations with multiple groups, reviewing other City information and ordinance, then attending the

Planning Board for their recommendation and only providing them with the zoning details to review. He then went into his overview beginning with the definitions, noting the changes or new items highlighted in yellow "Application", "Application for Renewal", "Buffered Use", "Church", "Employee", "License or Medical Marihuana Business License", "License Application", "Licensee", "Marihuana", "Marihuana-Infused Product", "Marihuana Tracking Act", "Medical Marihuana", "Medical Marihuana Facilities Licensing Act", "Medical Marihuana Licensing Board", "MMMA", "Park", "Public Playground Equipment", "Restricted/Limited Access Area", "School", to name a few. Council Member Wood asked where he obtained the wording for the definition on "School". Mr. Smiertka confirmed it was the language used in the Liquor Control Act, which is where they also got the definition for "Church". Council Member Wood and Hussain asked about the schools that do pre-school and head start since the new definition only speaks to kindergarten through 12 grade. Mr. Smiertka stated that he is not locked in to the distance measures, but here were also from the Liquor Control Act.

Mr. Smiertka moved on to the changes on page 8, 1300.3 which is now "Reserved" because he took out the earlier topic of a "Commission". This was removed but could be added if the Council wants it back it, it was removed after discussions with the Clerk's office on the process. If there is a hearing required, the Clerk can designate or appoint a hearing officer. Mr. Smiertka also noted that with FLHSA, it appears the State Commission is not appointed yet either. The operational standards at the State level will not be handled by the Commission. The group reviewed 1300.4 and 1300.5.

Mr. Smiertka moved onto page 12, item (23) where the applicant will acknowledge that there are other items out there with the State and Federal laws and regulations that the license will need approval of or be granted.

Council Member Wood asked if the City were to prosecute and there is drug activity within 1,000 feet, and they ask the Judge to give extra penalties, but then how could the City justify giving a license within 500 ft. Mr. Smiertka noted that one is zoning based and one is a drug free law.

Mr. Smiertka moved onto the standards admitting he left those alone, except for adding (4) which states "Whether the applicant has reasonably demonstrated it possesses sufficient financial resources to fund the submitted business plan and others plans required by Section 1300.5

Mr. Smiertka directed the Committee to page 25-26, Section 1300.14 on the denial and revocation process. Council Member Wood asked if the hearing officer can be from the City Attorney office, and Mr. Smiertka answered it would be whomever the City Clerk selected.

Mr. Smiertka pointed out that he added 1300.17 on page 28 and re-wrote the ZBA provision.

The group went back to 1300.13 on page 24 which spoke to distance and requirements. Item (A) on page 24 speaks to Provisioning Centers. Council Member Wood asked what if a park has no play equipment now but could in the future and according to this ordinance they have different setbacks. And Council Member Hussain added the question of the change between 300 to 500. Mr. Smiertka noted that the definition of "Park" is a "City Park" and the 300 ft. was the option presented to him in his discussions with provisioning center groups. Council Member Hussain asked Mr. Smiertka what that distance was in the Dykema version. Mr. Smiertka did not have that version to answer the question.

Council Member Houghton asked why parks were included in the first place. Council Member Wood answered stating it went back to 2011, and it had to do with the activity of kids in the

vicinity. Mr. Smiertka also noted the setbacks in this ordinance were presented to the Planning Board and they based their recommendation on them. Council Member Hussain pointed out that the Committee can listen to their recommendation but do not have to adhere to that. Mr. Smiertka noted he also spoke to other groups and used the liquor control way of measuring in his determinations. That is the right angle measuring to the location to the center of street, then down the center of street to the buffering location. In earlier drafts it was from property line to property line

Council Member Wood asked if the City can do zoning in ACT 425 properties. Mr. Smiertka noted zoning usually falls in the jurisdiction it falls, but admitted it has never come up before.

Mr. Smiertka pointed out that there is a section in the Charter, 8-501 that speaks to Marihuana and that is addressed in this latest version on page 25 line 19.

Lastly, Mr. Smiertka acknowledged that he has recently attended a Municipal Attorney meeting and meetings on Marihuana and every other municipality is at the same stage as the City of Lansing and struggling with the ordinances. From those meetings his understanding is the State will not start issuing licenses until the end of 2016.

Council Member Wood stated that her understanding is that the State says the City can enact zoning and limit licenses and has the ability to say no to one or all.

Mr. Quon outlined the maps presented and they are attached to these minutes. The numbers were determined based on the zoning and eligible areas. Because of the buffering restrictions in Draft 6a there are 619 parcels eligible and 1,806 in restricted areas. In the newest version, there would be 1,288 eligible parcels and 1,038 in restricted areas. They did not look at existing provision centers, and there are 445 parcels that if bisected half of that parcel would be in restricted and half would not.

Council Member Hussain acknowledged the City Attorney for their work, and directed Council Staff to place the recent maps on the website with corrected headers to denote Draft 6a and Draft 7. The meeting on March 1st he will begin the process of going through the ordinance line by line.

Medical Marihuana Moratorium Update

Council Member Hussain reminded all present that a moratorium went into effect on May 21, 2016, and complaints are directed to the City Attorney Office. There were recently 2 complaints filed in 2017. Those were the address of 825 E Michigan and 1900 E Kalamazoo. After his discussion with Mr. Dotson, the property at 825 E. Michigan was the former TNT, has been in operation for years just under a new name. The moratorium does not cover transfer of ownership. In regards to the address at 1900 E Kalamazoo, Mr. Dotson noted the phone number listed is disconnected, and so he is sending Code Compliance to check for verification it is open for business

Other

Council Member Wood pointed out that the recent Home Occupation amendments that were passed did not establish a fee and asked Mr. Smiertka if he concurred that if there is a complaint, investigation and it is determined to be a home occupation, then they register. However it is all complaint driven. Mr. Smiertka concurred noting that there is no registration fee established, but there is a standard rate for an inspection that will be applied.

Public Comment

Ms. Miles outlined her objects to the changes in the newest version of the ordinance. Those included her opinion that some of those changes came from the “Dykema Version” submitted to the Planning Board. Ms. Miles comments are attached to the minutes, but included comments on the definition of parks without park equipment, secondary schools, the lack of spreading the numbers equally in all Wards, asking for clarification on “positive community outreach”, what are “morals” mentioned on page 17, why did the parameter for financial resources get removed, drive up windows are not specified, why was the identifying information for packaging taken out, why no sanitary conditions in grow facilities, the distances have changed, it no longer specify the products need to be locked in a safe, needed information on determining the distance from the center line of the street, needed explanation on the exception to consumption on the premises, and the mention of a variance was an alert to her that needed better explanation.

Council Member Hussain encouraged Council Member Houghton to review draft 6a since she was not on the Committee last year. This would help her better understand Ms. Miles concerns.

Mr. Schuck spoke in opposition to the recent Ordinance that was passed regarding the registration on home occupations.

Mr. Wilson spoke in support of the cannabis, and his opinion that he has noticed zero adverse effect from the trade, and wants Council to see that imposing these restriction the businesses will go some where else.

Mr. Green spoke in support of addressing safety for both patients and caregivers.

Ms. Ordaway asked for clearer language in the ordinance, referencing pages as examples such as “disqualifying felony”, “restricted limited access area”, “related industry”, “establishment”, “non-home occupation”, to name a few. Ms. Ordaway was referenced a document that had draft 6a and the newest version combined on it.

Council Member Hussain stated the next meeting would be Wednesday, March 1st where the Committee will continue to review the ordinance.

ADJOURN

The meeting was adjourned 4:49 p.m.

Submitted by, Sherrie Boak,

Recording Secretary

Lansing City Council

Approved: March 1, 2017