



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

CALL TO ORDER

The meeting called to order at 3:31 p.m.

ROLL CALL

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

OTHERS PRESENT

Sherrie Boak, Council Staff
Council Member Jody Washington
Jim Smiertka, City Attorney
Heather Sumner, Assistant City Attorney
Kathy Miles
Jon Miles
Elaine Womboldt
Steve Green
Tammy Stein
Elvis Ott
Brant Johnson
Sam Johnson

MINUTES

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM MARCH 1, 2017 AS PRESENTED. MOTION CARRIED 2-0.

PUBLIC COMMENT

Council Member Hussain offered this opportunity for public comment, asking for appropriate decorum.

No public comment.

DISCUSSION/ACTION:

ORDINANCE DRAFT #7 Medical Marihuana Licensing

Council Member Hussain asked Mr. Smiertka to provide an update on the complaints and enforcement of the recent ordinance on home occupations and KWH. Mr. Smiertka noted his office should have the forms by the end of the week, and if they receive a complaint of a

residence where it is believed their usage is over 3500 KWH, they will be asked to file a complaint with the Fire Department under Code Compliance. An inspection will then be performed. He admitted that currently the ordinance is in effect, however they will not have the process secured until the end of the week. Complaint driven issues are given to the City Attorney office, and there is a process in their office on any marihuana complaints. These complaints can be filed on the website or in person.

Council Member Hussain asked for an update on the recent Chapter 1460.49 amendment process and enforcement. Mr. Smiertka informed the Committee and public that his office, City Attorney Office, is taking "marihuana" as a full topic and any resident can file complaints to that office. Council Member Wood asked if Law had spoken to the Fire Chief on implementation of the verification of taxes and adding it to a public information brochure. Mr. Smiertka confirmed, but he did not have any information to provide at the meeting and will bring it to the next meeting.

Council Member Hussain moved into the discussion on Draft 7, noting for the public that Council Member Wood and himself had compiled questions and concerns on the changes, and provided those to Law at the last meeting. The plan of the Committee is to review the ordinance, address the compiled questions and concerns, and task Law to re-work the ordinance to make sure the will of the body is being seen and demonstrated.

Mr. Smiertka briefly outlined the background of Draft 7, stating that dealing with Acts; such as the Michigan Medical Facility Licensing Act, a license will not be issued until December from the State for the "operator" under that Act, therefore this local ordinance deals with the "facility". Under that Act; Section 205: is dealing with the local municipality, and Section 206. Lastly Mr. Smiertka asked if the Committee had gotten the Planning Board report yet, and the Committee confirmed they had not.

Council Member Hussain informed the public that the MMFLA does state in a municipality without a local ordinance, that municipality may allow for 1, none. This Committee has not been charged with regulating recreational marijuana, and the City of Lansing does not have the capacity to fill the needs of the all of Michigan. The City is providing for safe access for medical needs and address neighborhood concerns. After a discussion with State Representative Andy Schor, he stated the intent of the State law was to give control to local municipalities.

Council Member Hussain read the introduction to the Ordinance, as stated below:

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 attendance 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 Houghton asked Law why the ordinance and discussion was with the Committee on Public Safety since it addresses land use and zoning. Council Member Wood answered that the ordinance began in 2010 in this Committee which was assigned by the President at the time, then reassigned by the President in 2016. She pointed out that there are portions that deal with code issues, which would why it would be in the Committee Part deals with code issues, and why in the Committee on Public Safety. Council Member Houghton then asked for the report from the Planning Board. Council Member Wood recapped for Council Member Houghton that the ordinance went through this Committee and

when finalized it was sent to the Planning Board, however the City Attorney asked for 60 additional days because at that same time the State statute had passed. At the end of 2016 the Committee asked for 6a to be returned to the Committee with the City Attorney recommendations. In the beginning of 2017 the City Attorney met again with the Planning Board on their zoning recommendations and has informed this Committee those recommendations have been incorporated into Draft 7. The Committee can now determine to approve the recommendations or strike them from the draft. Mr. Smiertka confirmed he did attend the Planning Board meetings, and did incorporate their comments into Draft 7, and was not aware of a formal report.

The Committee reviewed page 1, lines 4-13 with no comments.

The Committee reviewed page 1, lines 5-42 with no comments.

The Committee reviewed page 2, lines 1-23, and determined to add "secure transporter" to line 4 after "processor facilities."

The Committee reviewed page 2, lines 25-45 with no comments.

The Committee reviewed page 3, lines 1-22. Council Member Houghton asked about the process for the licensing and which license would come first the State or the City. Council Member Hussain clarified to Council Member Houghton that the City Attorney at the past meetings had stated for someone to get a City license they will need the State license first. Mr. Smiertka added that the same question is still being asked at the conferences he has been attending on the subject. He admitted that at this time, his recommendation would be that the City will have to issue a provisional license pending a State license. That license would not be permanent and would be subject to issues of the State license. Council Member Wood asked if it would be similar to liquor licenses, and Mr. Smiertka admitted that was an appropriate analogy.

The Committee reviewed page 3, lines 24-46. Council Member Wood referred to lines 33-34 which is a new definition on "Buffered Use", and why it was added. Mr. Smiertka stated during the time of review he performed he looked at other ordinances from other cities, and they addressed "buffering" as a definition and style in zoning ordinances.

The Committee reviewed page 4, lines 1-24 which included two changes; one adding the definition for "Church" and secondly the elimination of "Commission" which was in Draft 6a. Council Member Wood asked Law to explain where the proposed definition for "Church" came from. Mr. Smiertka answered that this ordinance is a regulatory ordinance, and being such there should be a vagueness of the language otherwise it could be challenged. It was added that most of the proposed definitions were from other Acts.

Council Member Wood referenced line 12 and asked the question on how this would define a church where they might not have a pastor or has a visiting pastor. Mr. Smiertka clarified that "clergy" refers to the function, and which he took from the definitions in the Liquor Control Act. After further discussion on the vacancy of the position, the Committee agreed to remove "with which a clergyman is associated and" from line 12.

The Committee reviewed page 4, lines 26-44. The question was asked if someone gets a 1099 are they considered an employee per the definition in lines 32-38. Mr. Smiertka acknowledged that a 1099 is a contract employee and is still an individual employee for wages. The Committee agreed to add "or under contract, and" after "or profit" in line 34.

The Committee reviewed page 5, lines 1-20 with no comments.

The Committee reviewed page 5, lines 22-36. Council Member Wood asked for clarification on the "infusion" process. Ms. Sumner stated the infusion butane is different than this, because that is a fire hazard. Council Member Wood asked if that can be addressed with a note in the ordinance. Mr. Smiertka stated the definition on "Marihuana- Infused Product" came from the Medical Marihuana Facilities Licensing Act. The only thing not included in this Act is for the purpose of the food law.

Mr. Smiertka pointed out to the Committee that line 44 of page 5 also speaks to the "transporter" that was added to the introduction.

The Committee reviewed page 6, line 1-28 with no comments.

The Committee reviewed page 6, lines 32-46, where Council Member Hussain asked Mr. Smiertka to explain the distinction between a park and a public playground. Mr. Smiertka encouraged the Committee not to look at the definition in isolation, that the addition of playground equipment defines a school. He noted that during the review by the Planning Board they did not like the number of locations available, so it was determined to do an exercise using a different measurement as in the Medical Marijuana Act. Council Member Wood asked Mr. Smiertka to refer to the Planning Board as a “board” for clarification, and also reminded the Committee that their comments are recommendations, but Council does not have to agree. The term “park” has been adopted and used in the Master Plan and Park Master Plan.

The Committee reviewed page 7, lines 1-10. Council Member Hussain and Council Member Wood spoke in support of the removal of lines 4-10 which was the definition of “Public Playground Equipment”. The distance is based on if the park has park equipment, however over time some parks have equipment and if not maintained the equipment is removed. Then there may be funding in later years to put the equipment back in the park. The Committee made not to return to this definition after complete review of the ordinance. Mr. Smiertka noted that the definition would only be applicable in the “buffering” section at the end of the ordinance.

The Committee reviewed page 7, lines 12-26 with no comments.

The Committee reviewed page 7, lines 28-32, the definition for “School” and the Committee agreed to add “Pre-K” after the word “grades” in line 30 and remove the word “kindergarten” in the same line.

The Committee reviewed page 7, lines 34-45 with no comments.

The Committee reviewed page 8, lines 1-8 with no comments.

The Committee reviewed page 9, lines 9, “Section 1300.3 Reserved” at which Council Member Wood asked if this was where the “Commission” was listed in Draft 6a, and if it would be added back in if it was chosen. Mr. Smiertka stated that the “Commission” was taken out because there is a Licensing Board with all the abilities to regulate the operator of the facility at the State level, and a State regulatory commission at the State. This is up for Committee consideration.

The Committee reviewed page 9, which Mr. Smiertka highlighted the changes. He noted that most of the changes in the ordinance Draft 7 are based off research of best Practices from other places and style from other ordinances. Council Member Hussain stated that some sections will not have any questions from the Committee because there is understanding the language is strengthening what was already in other drafts.

The Committee reviewed page 9, lines 1-12 with no comments.

The Committee reviewed page 9, lines 13-45, Section 1300.5. Council Member Houghton asked Mr. Smiertka if the City Clerk will have a check off list when they issue the license. Mr. Smiertka acknowledged he was still in the process of working with the City Clerk to develop items like the check list and the inspection form similar to other business licenses.

The Committee reviewed page 10 and the only change, which was the addition of “every” on line 15.

The Committee reviewed page 11, lines 1-38 with no comments.

The Committee reviewed page 11, lines 40-45 and Mr. Smiertka referred the Committee to Section 1300.13.

The Committee reviewed page 12, lines 1-20 which were identical to Draft 6a.

The Committee reviewed page 12, lines 22-27, and Law was asked why they took out the language “in no event less than twenty-five (\$25,000) thousand dollars in immediately available funds”. Mr. Smiertka explained they did not want to pick a number that has no bearing, but wanted it to state something that says the business wants to operate. He noted that in the section reflecting the City Clerk’s role, the Clerk can hire an employee or an outside business to investigate the capital of the entity. The MMA does not have an exact number in it either.

The Committee reviewed page 12, lines 29-33 which reflected Draft 6a.

The Committee reviewed page 12, lines 35-46 and page 13 lines 1-10 with no comments.

The Committee reviewed page 13, lines 12-37 with no comments.

The Committee reviewed page 13, lines 39-46, which Mr. Smiertka stated is standard in all contracts.

The Committee reviewed page 14, line 1-24 with no comments.

The Committee reviewed page 4, lines 26-46 and the consensus of the Committee was to remove "medical marihuana commission" from line 27, correct "1300.18" in line 26 to "1300.17" and correct it also in line 39.

The Committee reviewed page 15, line 1-10 and agreed to remove lines 6-9 which was item (F).

The Committee reviewed page 15, line 11-21, and after a discussion on time lines, required allotted time for departments to report, and potential policies, the consensus was to reconsider this section later for further discussion.

The Committee reviewed page 15, lines 22-46 with no comments.

The Committee reviewed page 16, lines 1-21 which Mr. Smiertka stated ties together with similar language for the evaluation.

The review stopped at the beginning of Section 1300.7, and the discussion will pick up at that Section at the next meeting.

Council Member Hussain determined the next Committee meeting would be April 5, 2017. He did add that there will be a special Committee meeting on Thursday, March 30th at 6 p.m. at 3200 S. Washington with the only agenda item being that property.

Council Member Wood recapped from the last meeting on this subject a question on revocation of the license and cease of operation, and what that would mean to a grower. She asked Law to look into that question since if the grower was asked to cease, they could lose their corp. Mr. Smiertka stated that on suspension provisions, they could provide due process by providing a hearing within a short period of time, and do before any action is taken, or eliminate for growers.

PUBLIC COMMENT

Ms. Womboldt spoke in opposition to Draft 7, and voiced her concerns with the Planning Board and their concern for having enough space for the medical marihuana sites.

Mr. Green spoke in support of the diligent work the Committee has done, and asked the Committee why they were looking at medical marihuana uses different then a pharmacy.

Mr. Johnson acknowledge the Committee for their work, questioned why the topic was at the Public Safety Committee , and asked the Committee to review page 5, line 8 which lists "seeds" in the definition, however the MMA specifications spell out that seeds are not medical marihuana. Mr. Johnson concluded stating his opinion that the Committee was segregating the medical marihuana uses.

Mr. Smiertka replied to Mr. Johnson question on the "seeds" stating that definition was from the Michigan Health Code.

Other

No other topics.

ADJOURN

The meeting was adjourned 4:55 p.m.

Submitted by, Sherrie Boak,

Recording Secretary
Lansing City Council
Approved: April 5, 2017