



MINUTES
Committee on Public Safety
Tuesday, April 18, 2017 @ 3:30 p.m.
City Hall, Council Chambers

CALL TO ORDER

The meeting called to order at 3:32 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
Heather Sumner, Assistant City Attorney
Mark Dotson, Deputy City Attorney
Mary Ann Prince
Lee Klein
Rev. Jeremy Hall
Harriet Clauson
Mary Ellen Purificato
Travis Pollock
Kathy Miles
Bryan Madle

MINUTES

Action on the minutes moved to the next meeting.

PUBLIC COMMENT

No public comment at this time.

DISCUSSION/ACTION:

ORDINANCE DRAFT #6b Medical Marihuana Licensing

Council Member Hussain recapped the process from 2016 into 2017 with Draft 6a and Draft 7. Draft 7 was vetted up to page 15, however after details from the City Attorney, the Committee chose at the last meeting to revert back to Draft 6a with the assertion of newer definitions and recent language changes from the State legislature.

Mr. Smiertka confirmed that the recent draft, 6b dated April 17, 2017, was a replication of 6a out of this committee in 2016 and what went before the Planning Board, now with updates to

comport with the new Medical Marihuana Facility Licensing Act and Tracking Act. Mr. Smiertka then took the Committee through the highlighted changes beginning on page 2 with the addition of “medical marihuana secure transporters; and the addition of referencing the Act. Page 3 added conforming language, in addition to page 4 speaks to the definition on cultivation which was summarized. The reference to Michigan Medical Marihuana Care Giver Center was removed, and even though there was a request to add “compassion groups”, it was not added because there was nothing in the State law. The only changes on Page 5 spoke to changes made to make the language consistent for licensing. It was noted that Page 6-7 only had cosmetic changes and the addition of “present” at a meeting for quorum.

Council Member Hussain began the discussion on the “commission”, and asked in terms of the Committee on Public Safety, if the consensus was to have a “commission”. Council Member Wood stated her opinion that after seeing the changes in draft 7 with the Clerk and provisions for the Clerk to have adequate staffing and ability to hire people to vet those applications, she was now comfortable to repeal that section on “commission” and keep it as a *RESERVE* for the future.

Council Member Houghton asked for a history on what the discussion was in 2016 and what the public thought. Council Member Wood told her that it was put in to be consistent with the State Legislation at that time, and they did not hear any angst from the public when it was removed. Council Member Houghton stated her agreement to having it removed. Mr. Smiertka stated that since draft 6a had the Commission, the current draft 6b refers to the Commission, so his office will have to make the changes to reflect draft 7 references to the Clerk and not the Commission. Council Member Wood asked if there will be a hearing process similar to the Cabaret License process. Mr. Smiertka confirmed that the process currently written has the appeal to Council. The consensus of the Committee was to follow the same process as Cabaret License. Mr. Smiertka recapped the suggested changes, those being to take out “Commission”, have the Clerk handle everything, and in the case of denial or revocation the Clerk can appoint a revocation officer and report back to the Clerk. Council Member Wood asked that any denial, revocation or appeal go through a hearing officer then that recommendation come to Council. Mr. Smiertka confirmed he would amend the ordinance to reflect that, and asked if the Committee wants to review on the record or review with no ability to offer new evidence. The consensus was for review only by Council and on the record.

Mr. Smiertka continued his review of the changes presented in draft 6b. Page 8, 1300.5 added the hold harmless provision and added to any application. The next changes were not until page 13 which added in elected, appointed officers, employees and agents as additional insured. Council Member Hussain referred to line 14 on that page and if \$1 million was a consistent amount. Mr. Smiertka confirmed it was, and the language is standard and the amount is considered under liability. Other changes in the pages up to page 20 were formatting changes. Page 20, lines 29 and 31 added the word “grower” because was missing from the first draft.

On page 26, starting on line 27 1300.13 was the distance buffers which was in the original draft 6a. Council Member Hussain asked if school covers “pre-k”, and if it follows the 1,000 ft. safe school zone. Mr. Smiertka again confirmed it had come from the last ordinance adopted which is generally following the drug free zone at schools. Council Member Hussain asked for maps when the Committee does the final vetting of the ordinance.

Page 28 spoke to changes for clarity, and reminded the Committee that anywhere “commission” is used they will remove and replace with “Clerk”. Page 29 added “Mayor” on line 26, 29 and 34 and added in hearing notice and suspension.

The Committee began their questions to Law on the newest draft. Council Member Wood referred to page 3, which was missing the “application and application for license renewal” that was present in draft 7. Mr. Smiertka stated he refrained from putting any definitions from draft because the Committee wanted to go back to draft 6a. Council Member Wood asked that the definitions she had just referenced as missing be added in, also the definition for “church”. Council Member Hussain asked Mr. Smiertka to add all definitions from draft 7. Council Member Wood asked that there was an extensive definition in draft 7 for “medical marihuana” and she wanted that added. Council Member Wood asked for the “park” definition be added back in as well, and Council Member Hussain asked them to include “pre-k and head start” in the definition for school.

Council Member Houghton asked what would happen if a day care moved next door to a provisioning center. Council Member Wood stated her opinion that there was nothing that could be done because the day care chose to move next to an established business. Mr. Smiertka suggested adding “existing establishments” to make sure it clear, and can also be added in the application.

After no further questions or comments from the Committee, Council Member Hussain stated the next meeting would be May 2, 2017 at 3:30 p.m. and the ordinance will be titled Draft 6c for reviews. Law was asked to provide that ordinance at least 48 hours before the meeting.

Moratorium

Council Member Hussain noted for the Committee and public that the moratorium has been in place since May 22², 2016, and per the City Attorney’s office there have been no violations. Initially the City Attorney office stated that when the moratorium was enacted, the registration piece could not occur, however recently at the April 2017 committee meeting it was stated by Law it could.

Mr. Dotson addressed a concern of whether the City Attorney or the City could keep a list of the active/open dispensaries, stating he was not aware that the City should not have a list. Council Member Wood recapped for Mr. Dotson that Mr. Abood in the City Attorney office informed the Committee that there was a concern with registering, because it was in essence giving them permission to do something legally they were not supposed to be doing. If a complaint was called in, and they were not on the list they could be closed. Mr. Dotson asked if moving forward, the Committee wanted a registration list. Council Member Wood asked for the list to be created, she added that Law made the statement that there were none at the time that have come to Law and they had been vetted before the moratorium. Mr. Dotson stated that the moratorium prohibited starting of new one, it did not involve where some relocated, and did not cover transfer of ownership. Council Member Wood stated the Committee asked for those that were open and the location. Mr. Dotson stated that the Committee needed to make their intent clear, and his office is in the process of compiling a list.

Council Member Hussain gave his opinion that the whole topic was convoluted, and the City needs to go back to the 2010 adopted ordinance. Council Member Wood asked if the Committee should reconsider the moratorium with a new date to get a final product. Mr. Dotson noted there was no reason why legally not a permissive process, there are consequences of not registering. Council Member Hussain asked Mr. Dotson if there ever was any enforcement and shut downs. Mr. Dotson could not recall a violation, and also added that he saw no reason why the Council could not go back to the 2010 process.

Council Member Wood again asked for opinions on if it would be easier to open the moratorium to get them to register, and if there is a process to send out a notice to tell them to register. Mr. Smiertka recommend the Committee push forward on the ordinance because

there is a new Act coming into place and a lot of the issues will take care of themselves with the new ordinance and State law. Currently there are a number of locations in commercial districts, he stated, presumably acting in compliance with the Act. Mr. Smiertka suggested that if the Committee has a concern with the commercial area, they could have a moratorium and registration, and they could run in conjunction with the ordinance.

Council Member Wood asked if the ordinance was enacted June 1, what would happen to those that are currently open. Mr. Smiertka stated they would have to go through the vetting and application process, which could take 4 months. What that will allow will let commercial operators operating without having to follow the MMMA restrictions but also have to follow the licensing Act and regulations. Mr. Dotson added to the discussion that the proposed ordinance is contingent on having a license from the State, so they would be illegal locally.

Council Member Hussain pointed out again that is why the Committee and Council wanted a moratorium, because the MMFLA is clear these uses are not legal until the State and municipal licenses are issued. Mr. Smiertka stated his opinion from what he has heard at the State level is that the State expects the City to issue licenses first.

Council Member Hussain called to questions the status of the moratorium with the Committee. Council Member Houghton admitted it was confusing and questioned what to do in the meantime. The rules need to be clear so businesses are clear. Mr. Dotson stated that he heard the State will start accepting applications in December 2017, and not issues licenses until May 2018. Mr. Smiertka suggested enacting the ordinance, and during the interim period where the applicant is qualified to have a license from the City, but not time for the State to act, the City could issue a provisional license with only the activities under the MMMA not the MMFLA. Council Member Hussain pointed out that there are immunities under the MMMA that will not apply, and Mr. Smiertka noted the City will license the location not the operation. Mr. Dotson noted to the Committee that Detroit is currently issuing licenses conditional on the MMMA, and he was not aware of any enforcement violations they have encountered. Council Member Wood asked if the City can send out letters telling everyone to register. Mr. Smiertka stated there is nothing legally stopping them, but asked what that would solve other than knowing those business are acting under the MMMA legally. Council Member Wood was encouraged that if they registered it would prevent them from moving or changing ownership. Mr. Smiertka stated his understanding from the Director of LARA, that they expect the local municipalities to do all the vetting of the businesses for the renewals.

Council Member Houghton asked if there is a criteria to apply, and when the applicant makes application to the State if they need the City license. Mr. Dotson stated that as of right now they do not, the State's position is that the City only has to provide the Ordinance and Law. If they have a license from the State and not the City, they cannot operate in the City. Mr. Smiertka added to the information, that LARA is amending the statute currently asking for the zoning, ordinance and description of any zoning violations.

Council Member Hussain ended the conversation and stated he would meet with the City Attorney on options to bring back to the Committee.

Council Member Hussain moved the discussion to the signage concerns that have been voiced by Council Members. He reminded the City Attorney office that they were supposed to be researching the process to make all signs in the City consistent with the requirements in downtown which is only 20% of window coverage. Ms. Sumner stated she was working on a final ordinance with a focus on keeping the language the same. Council Member Hussain asked what she had found out with franchise agreements on businesses. Ms. Sumner admitted she could not find specifics. Council Member Houghton asked how strict it can be on

graphics. Ms. Sumner could not talk about the specifics she is proposing, but stated her proposal was to focus on the health, safety and welfare for the employees and customers inside the businesses. Council Member Hussain asked about the enforcement of the signs. Ms. Sumner stated her research showed that Code Enforcement has not done a “sign sweep” lately, and that they have leeway in their enforcement.

Council Member Wood spoke about her concerns on the signs in the right of way, particularly with the focus on events at the Lansing Center. Mr. Smiertka suggested that LEPFA insert a provision in their event contracts with a clean-up bond attached.

Council Member Houghton asked how far the City can go on the content restrictions, and Ms. Sumner stated there are first amendment territories that have to be followed.

PUBLIC COMMENT

Mr. Klein provided copies of articles to the Committee, then spoke on the moratorium, gave his opinion that no regulations were in place and that the statue is not enforceable.

Rev. Hall asked the Committee what their purpose is, spoke on the religious belief over physical health, and concluded by stating his opinion that the culprits are the Committee when they over regulate and foster criminals. He also spoke in opposition to all Council Members.

Mr. Pollack spoke on the buffer distances, asked the Committee to remove the separation requirements, however spoke in support of multiple licenses at individual locations.

Ms. Miles asked for an interpretation on the distance measurements and if it is property line to property line. The Committee confirmed. She then asked if the drive up window option was approved in the ordinance, and Council Member Hussain answered that it was not in 6b. Ms. Miles then asked the Committee to consider further discussions on “garden”.

Mr. Madle pointed out to the Committee that they need to consider the timelines for the applicants considering that they might not get their license from the State until May 2018, however they will be in a location that cannot operate until that time frame, which could be months. For the new State law it requires all products have to be in seed tracking so there will be a delay.

Council Member Washington asked Council Member Hussain to add to the agenda of the next meeting a discussion on the capacities for the medical marihuana such as transporters, processors, growers, etc. and if the Committee would consider setting a cap on what uses the City would allow. Mr. Smiertka added that in the zoning aspect, growers are only allowed in industrial and under the proposed ordinance Law is only looking at restrictions to whole sale, in light industrial and heavy industrial.

Council Member Hussain ended by reminding everyone present that there is already an ordinance on the books.

ADJOURN

The meeting was adjourned 5:33 p.m.

Submitted by, Sherrie Boak,

Recording Secretary

Lansing City Council

Approved: May 2, 2017 as amended