

City of Ann Arbor

301 E. Huron St.
Ann Arbor, MI 48104
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Action Minutes

Thursday, May 11, 2017

9:00 AM

Special Meeting

Larcom City Hall, 301 E Huron St, Basement, conference room

Medical Marijuana Ordinance Review Committee

CALL TO ORDER

The meeting of the Medical Marijuana Ordinance Review Committee was called to order by the Chair, Jonah Copi, at 9:04 a.m. in the Basement Conference Room of the Guy C. Larcom Jr. Municipal Building, 301 E. Huron.

ROLL CALL

City Clerk Jacqueline Beaudry, Community Services Area Administrator Derek Delacourt, Assistant City Attorney Kristen Larcom and Planning Manager Brett Lenart, were also in attendance from City staff.

Present 4 - Chip Smith, Brian Fenech, Jonah Copi, and Craig Stoller

Absent 1 - Jason Frenzel

APPROVAL OF AGENDA

A motion was made by Councilmember Smith, seconded by Stoller, that the Agenda be approved with the following changes:

Removal of second Public Comment Header on Agenda. (Leave Public Comment as last item on the Agenda.)

On a voice vote, the Chair declared the motion carried.

APPROVAL OF MINUTES

[17-0715](#) Medical Marijuana Ordinance Review Meeting Minutes of March 21, 2017

Attachments: 03-21-17 Med Marijuana Review Cmttee draft minutes.pdf

A motion was made by Councilmember Smith, seconded by Fenech, that the Minutes of the Medical Marijuana Ordinance Review Committee be approved by the Board and forwarded to the City Council by 6/5/2017. On a voice vote, the Chair declared the motion carried.

UNFINISHED BUSINESS

[17-0717](#) Proposed Revisions to Chapter 95

Attachments: Ordinance Amendment Draft #2 (showing changes to draft provided at 5-11-2017 mtg).pdf, Ordinance Amendment Draft #2 (showing changes to draft provided at 5-11-2017 mtg) (002)(redline).pdf, MM Committee

Cover Memo.pdf, Ordinance Amendment Draft #1.pdf

Committee members discussed the draft revisions to Chapter 95 that had been distributed by Assistant City Attorney Kristen Larcom for their review.

Councilmember Smith inquired about the reason for a 10-week review period as identified in Section 1:106(2). Larcom replied that it was likely carried over from the existing ordinance. She stated she would check if there was a specific time requirement needed.

Councilmember Smith also asked if the reporting of a felony or other crime was required under any other ordinance, as listed in 1:106(1)(d) of the draft ordinance. Ms. Larcom also replied that this language was carried forward from the previous ordinance. Councilmember Smith suggested that it could be removed and the Police could review the application if necessary.

Community Services Area Administrator Derek Delacourt informed the committee that staff intends to remove Section 1:108(4) before the committee's next review as it has been determined that this clause is not needed and in some cases may not be known.

Commissioner Fenech stated Section 1:106(1)(f), regarding proof of State license, appears to be out of order. He stated it is his understanding that the State will be requiring the local approval prior to the issuance of the license so applicants for the local permit will not have proof of a State license when they apply to the City.

Chair Copi expressed concerns about the proposed language in 1:103(2), stating this is contrary to the discussion of the committee. He stated the committee has agreed that they do not want any interruption to existing patient care. Chair Copi stated he would still like to find a way to consider "grandfathering" existing businesses, those in operation for at least one year, perhaps with an advanced opportunity to apply for the new permits. Fenech concurred and stated the two paragraphs in this section are in conflict.

Commissioner Stoller concurred, stating grandfathering is important.

Delacourt clarified that from the City's perspective, there were no permits issued under the previous ordinance and therefore the City can't "grandfather" something that doesn't exist.

Stoller asked why a "fast track" couldn't be provided for those businesses already in operation. Councilmember Smith suggested perhaps the existing businesses could be moved through the zoning compliance process first.

The committee discussed the number of provisioning centers currently operating. Delacourt stated that there are 13 or more existing businesses today, noting that 13

have contacted the City in some capacity in the past, either through zoning compliance or a license application under the old ordinance.

Fenech noted that some businesses have been operating for 8 or more years. Copi concurred with an earlier suggestion that the existing businesses should be first to start the zoning approval process. Councilmember Smith stated it is not the intent to zone anyone out of business.

Smith stated the committee needs to consider how the licensing process would work and what outreach to existing businesses would take place. Delacourt reiterated that the City can't "grandfather" or have a separate process for existing businesses, but he stated an early window could be considered.

Fenech inquired about the existing ordinance language regarding the required signage declaring the violation of federal law. Assistant City Attorney Larcom stated it was included in the 2011 ordinance to ensure that the information was provided to patients who may not understand. There was general consensus that the requirement for this signage did not need to be included in the proposed ordinance.

Chair Copi suggested the committee consider the draft ordinance requirements and how they will respond to out-of-towners or big businesses coming to town. Delacourt replied that they can consider a cap and other criteria for application, but it can't be based on finances or exclusion of corporate or big money businesses.

There was general consensus that the City did not need to separate the permits for growers, based on size. The City could approve one permit and the applicant could apply for the specific permit size with the State.

The committee continued the discussion regarding permit caps and the number of businesses that could be accommodated in Ann Arbor.

There was discussion regarding the appeal process for a permit denial, as well as zoning compliance. It was also noted that Section 1:112 regarding penalties was currently blank in the proposed draft ordinance. Ms. Larcom stated that if a specific penalty is not included, a current Code violation is a 90-day misdemeanor, with a maximum fine of \$500. She stated if the committee desires a violation to be a civil infraction, they will need to include that in this section. Committee members suggested the penalty be a civil infraction.

Regarding a cap, Copi stated that a cap may be necessary to avoid a drain on City resources. Fenech concurred, stating there could be a drain on the environment, as well as to the Police.

Mr. Delacourt reviewed the committee's recommendations for changes to the draft ordinance for review at the next meeting:

Change 70 days to 90 days for the application process

Address grandfathering issue or order of operation

License application order (City permit first)

Strike language regarding crime reporting

Look at cap on number of facilities

Consider 1 cultivation permit at the city (not by plant count)

Civil infraction for penalty

Check with Police regarding maximum numbers

Chair Copi also asked if the language regarding a storage safe could be reviewed.

Deferred to the Medical Marijuana Ordinance Review Committee due back on 6/15/2017

NEW BUSINESS

Chair Copi questioned if the committee would be able to meet the June 30 deadline for their recommendations. He asked if the committee could continue beyond that date.

NEXT AGENDA ITEMS

The committee agreed that it would schedule its next meeting when the revisions to the draft ordinance were ready for another review.

COMMUNICATIONS

None.

PUBLIC COMMENT

Chuck Ream, previous owner of 1818 Packard, stated he has been working on medical marijuana since 2003, before the State law passed. He stated he was raided by the feds in 2011 and his partner at the time stole his "permit" under the old ordinance and his former partner is operating as Arborside with his permit. Mr. Ream stated he should be grandfathered under the old ordinance as he is waiting to reopen his new business until the City has the new system in place.

An unknown audience member stated the goal going forward should be for continued safe access and businesses who operate under the caregiver model should be able to continue operating while permits are pending.

An unknown audience member stated LARA isn't even ready with regulations and the State is currently advising business owners to work with the locals to get a local permit. (Mr. Fenech replied that the City's new ordinance will address when applications will be accepted.)

Alison Ireton, current dispensary owner, stated they have all been advised by LARA to get a local permit first. She asked if the City would allow for a grace period for businesses to transition from the current operating model to the new requirements. She also stated that recreational use is coming and will likely be on the November 2018 ballot. She said medical dispensaries should be first in line to get recreational permits if there is a limit to the number or the proximity.

An unknown audience member stated Ypsilanti successfully "capped" the number of dispensaries through zoning, but stated it can't simply be an arbitrary number.

Dennis Hayes questioned the proposed language for 1:103(2) stating it could be used to outlaw existing businesses. He spoke in opposition to this section of the proposed ordinance.

An unknown audience member asked for clarification if those in the application process could continue with the caregiver model until their new permits and licenses were approved.

ADJOURNMENT

Seeing no further business before the committee, Chair Copi called the meeting adjourned at 10:48 a.m.

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