



City Council

CITY OF BROCKTON

CITY HALL

45 School Street • Brockton, Massachusetts 02301

TEL: (508) 580 - 7114

MINUTES – ORDINANCE COMMITTEE

October 18, 2018

The Standing Committee on Ordinances and Rules was called to order at 6:10 p.m. by Councilor Sullivan with Councilors Sullivan, Monahan, Cruise, Farwell, and Rodrigues present.

Meeting held at the Romm Little Theatre at Brockton High School due to broken elevator.

The Committee first considered the following:

1. An Ordinance to Establish Licensing and Regulation for Adult Use Marijuana Establishments.

Invited to attend:

City Solicitor Philip Nessralla
Attorney Megan Bridges
City Planner, Rob May

City Solicitor Philip Nessralla, Assistant City Solicitor Megan Bridges, City Planner Rob May all appeared.

Comment by Assistant City Solicitor Megan Bridges

(daunting, need to be readable, wanted to simplify regs., want to incorporate a compromise between city council and license commission regarding violations vs. small violations, revocations, talks about zoning issues, public safety concerns, licensing use regs, what requirements, standard for license, who decides who gets a license, repercussion standards and procedures, redline for suggestions for changes, some changes overlap,)

MOTION

Purpose 1.001

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR MONAHAN to Amend Section 1.001, paragraph 1 to strike the word “licenses” and insert the word “licensed” and in paragraph 5, to strike the word “it” and insert the words “the City.”, motion passed unanimously.

MOTION

Purpose 1.001

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR MONAHAN to insert “Massachusetts General Laws chapter (“M.G.L. c.”)” prior to 94G, in paragraph 5., motion passed unanimously.

MOTION

Definitions 1.002

Motion by COUNCILOR FARWELL, 2nd by COUNCILOR FRUISE to Amend Section 1.002 to strike the words “General Laws” and insert the letters “M.G.L.”, motion passed unanimously.

MOTION

Fees 1.003

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR FARWELL to Amend Section 1.003 to strike the “;” in subsection (a), to insert “Registered Marijuana Dispensary (“RMD”)” in the place of RMD in subsection (c), and to add the following language to the end of the sentence in subsection (d): “as outlined in the able above in Section 1.003(c).”, motion passed unanimously.

MOTION

Fees 1.003

Motion by COUNCILOR RODRIGUES, 2nd by COUNCILOR CRUISE to Amend Section 1.003 to strike \$300 fees for Application fees for Microbusiness, Manufacturing, Independent Testing Laboratory, Retail (brick and motor), Third-party Transporter, Existing Licensee Transporter, and Research Laboratory, and insert “\$500” for each Application Fee, motion carried with Councilor Farwell in opposition.

MOTION

Marijuana Establishments 1.004

Motion by COUNCILOR FARWELL, 2nd by COUNCILOR MONAHAN to insert “Department of Revenue (“DOR”)” in the place of DOR in subsection (1); to Strike “three licenses” and insert the word “one license”; to strike the language beginning at “An Independent Testing Laboratory...” and continuing and through the language ending at “any such interests as part of the application pursuant to this Ordinance.”; Motion to strike all language in subsection (c) and insert the words “Intentionally omitted.”, motion passed unanimously.

Comments by Rob May, City Planner:

(RMDS are all required to be not for profit, and it would require that they contribute to the city also)

Comments by Councilor Sullivan:

(re impact of this provision on TIF programs in the City of Program)

Comments by Councilor Farwell

(question to City Solicitor re TIF)

Comments by City Solicitor Nessralla:

(could be a case by case, let them file and then rejected if necessary)

Comments by Councilor Sullivan:

(consideration of what's the difference between the Pilot and the TIF)

Comments by Councilor Cruise:

(comes from the CCC, lets an operator know don't operate at a tax exempt property)

Comments by Councilor Farwell:

(re use or City Clerk or City Clerk's Office)

Comments by Councilor Rodrigues:

(re same when use of Mayor's Office v. Mayor)

Comment by Councilor Cruise:

(re the City Clerk's office does this, they are deputized to perform)

MOTION

Marijuana Establishments 1.004

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR RODRIGUES to strike "Brockton City Council" in subsection (e) and insert "City of Brockton by and through the offices of the Brockton City Clerk"; to strike all language in subsection (f) and insert the words "Intentionally omitted."; to insert " "" marks around the word PILOT; to strike "city or town" in subsection (h) and insert the words "City of Brockton"; and to strike the words "chapter 138 of the General Laws" and insert the words "M.G.L. c. 138", motion passed unanimously.

MOTION

Application Requirements 1.006

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR MONAHAN to strike "Brockton City Council" in subsection (1) and insert with the words "City Clerk's Office"; to insert "The

application shall also include any application(s) for Site Plan Review and/or Special Permit as required under Brockton Zoning Ordinance Section 27-24.4 Adult use of marijuana. The application shall also include certification of Site Plan Approval (all license categories) and a Special Permit (for Marijuana Retail operations only).” to subsection (1); Motion to strike the language beginning at “The application shall consist of two..” and insert the language, “The application shall consist of four packets: a copy of the Cannabis Control Commission (“CCC”) Application of Intent packet, a copy of the CCC Management and Operations Profile packet, a copy of CCC Background Check Application and Confirmation, and a copy of the Community Host Agreement.”; to insert the language “The application shall include the requisite non-refundable application fee.” at the end of the paragraph, motion passed unanimously.

MOTION

Application Requirements 1.006

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR MONAHAN to strike the subsection 1.006(1)(a)(1-13); to strike the subsection 1.006(1)(b)(1-9); to strike the subsection 1.006(1)(c)(1-5); to strike subsection 1.006(2); to insert the following “(2) Additional Requirements. Particular types of Marijuana Establishments that require additional specific requirements to be submitted to the CCC pursuant to 935 CMR 500.101 shall also be submitted to the Brockton City Council.”, motion passed unanimously.

MOTION

Action on Applications 1.007

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR FARWELL to strike the word “in” and insert “contained” in subsection 1.007(1)(b), motion passed unanimously.

Comments by Councilor Farwell:
(re buffer zone)

Comments by Councilor Rodrigues:
(re denial letter)

MOTION

Action on Applications 1.007

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR MONAHAN to insert the words “and the City of Brockton” in subsection (1) following the word “Commonwealth”; to strike the language in subsection (1)(b) beginning at “Failure of the applicant” and continuing through and including “of the application as submitted.”; to strike the language in subsection (2)(b) entirely and to insert the words “Intentionally omitted”, motion passed unanimously.

MOTION

Action on Applications 1.007

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR MONAHAN to insert “ninety (90)” in place of the use of “90”, motion passed unanimously.

MOTION

Action on Applications 1.007

Motion by COUNCILOR FARWELL, 2nd by COUNCILOR CRUISE to strike the words “provisional” in subsection 1.007(2)(c) and 1.007(2)(c)(1); motion to strike the words “all required packets” in subsection 1.007(2)(c) and insert the words “the application is”; to strike the words “Denial shall include a statement of the reasons for the denial.” in subsection 1.007(2)(c)(2), motion passed unanimously.

MOTION

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR MONAHAN to designate legislative counsel to amend document throughout to spell out the words when the numerical designation is only used, ex. 90 to become ninety (90), motion passed unanimously.

MOTION

Licensure and Renewal 1.008

Motion by COUNCILOR CRUISE, 2nd by COUNCILOR MONAHAN to insert the words “Planning Board, and Zoning Board of Appeals” after Brockton City Council in subsection 1.008(1); to insert the word “ordinances” after all relevant laws in subsection 1.008(1)(d); to strike the word “regulation” and insert the words “the license” in subsection 1.008(1)(d); to renumber section (3) to be (2).

Comments by Councilor Rodrigues:

(License Commission, take away decision making of the license commission)

Comments by Councilor Monahan:

(emergency situations to be addressed by the License Commission)

Comments by Councilor Rodrigues:

(board of health to make unilateral decision, comments re suspension of business, income loss concerns),

Comments by Councilor Sullivan:

(separate issue to address an ordinance relative to license commission, rules, regulations and authority, concurs that notice is an issue)

Comments by Attorney Bridges:

(notice to be sent perhaps to the city council)

Comments by Councilor Sullivan:

(please cc Legislative Counsel on everything, all emails from Solicitors office to the City Council)

Comments by Councilor Farwell:

(Cape police department trained on CCC enforcement/regs, not sure if the License Commission can be equipped to do this)

Comments by Attorney Bridges:

(board of health getting training, they have statutory authority for their own regulations, CCC is coming in with secret shoppers looking for violations)

Comments by Councilor Cruise:

(board problem, administrative issues, BCC is a legislative body, worried to take away license commission's ability to suspend.

Comments by Councilor Rodrigues:

(problem with giving authority to suspend on 1 individual's ability to suspend)

Comments by Councilor Farwell:

(if police found violation, meeting would need to be convene, who has singular authority to make a suspension)

Comments by Attorney Bridges:

(can do immediate action, police and fire can shut down for emergency)

Comments by City Solicitor Nessralla:

(code violations are citations, which go to license commission, board health, fire, police, shutdown, then hearing, no authority for council to do anything, misplaced fear that an agent is going to act outside scope, extraordinary circumstances for health/safety)

Comments by Councilor Rodrigues:

(wants contemporaneous notice)

Comments by Councilor Cruise:

(what constitutes grounds for suspension)

Comments by Attorney Bridges:

(re state regulations, public health, safety or welfare)

Comments by Councilor Farwell:

(if we suspend, the next business day there should be a report to the Solicitor's office, important for Law Department to get involved, and guidance to License Commission)

MOTION

Motion by Councilor Cruise to POSTPONE Agenda Item #1 until next Ordinance Meeting by 2nd by Councilor Monahan, Motion carried unanimously.

Having considered the same, the Ordinance Committee next considered the following:

2. An Ordinance Amending Chapter 27 of the Revised Ordinance of the City of Brockton concerning the regulations and taxation of Marijuana be it ordained by the City Council of the City of Brockton. Article III. General Regulations and Permitted Modifications, is hereby amended by adding the following Section 27-24.4 Adult use of marijuana.

Invited to attend:

City Solicitor Philip Nessralla
Attorney Megan Bridges
Chief Financial Officer, Jay Condon
City Planner, Rob May

Comments by Councilor Rodrigues:

(inquiry re the city council to designate funding)

Comment Jay Condon, CFO:

(general revenue, city council can take a portion and designate, but would need to designate a separate stabilization fund, but would need to be at least 25%)

Comments by Councilor Rodrigues:

(clarifies that we would need a separate stabilization fund, what would that entail)

Comment Jay Condon, CFO:

(you'd have control over it anyways because it goes into the general revenue (like a local receipt), annual presentation will have a line for retail marijuana, then goes

into big pot, and then gets appropriate, can put more than 25% into a special kind of stabilization fund and designate the purposes for the use of those funds)

Comments by Councilor Rodrigues:
(you could put 100% in)

Comments by Jay Condon, CFO:
(not use if you can then designate money out of the stabilization, it would require a separate appropriation without restriction, that's a power of the Mayor)

Comments by Councilor Farwell:
(Host Agreement 3%? Payments to champion plan)

Comments by Jay Condon, CFO:
(it is, it's part of the general fund receipt, not aware of the designations/payments to the City)

Comments by Attorney Bridges:
(3 streams of revenue (tax, community impact fee, donation), City no control over the donation fee, expiration agreement, new agreement doesn't provide for that)

Comments by Councilor Farwell:
(state ethics law, donation)

Comments by Jay Condon, CFO:
(council can make a request, and if Mayor says no, action is limited, can do for no appropriation)

Comments by Councilor Sullivan:
(start the ball now on stabilization fund)

Comments by Councilor Cruise:
(RMD Host Agreement, there was charitable donations in the past designated by the Mayor, Champion Plan/Boys and Girls)

Comments by Attorney Bridges:
(downtown 2 licenses, map shows school in the cities, shows a 500 foot buffer zoon, C2 zone for outskirts near other municipalities, odor, security, nuisances, Site Plan review requirement)

MOTION by Councilor Farwell, 1,000 foot buffer, licensed daycare, public/private school, public library (MOTION WITHDRAWN BY COUNCILOR FARWELL)

Comments by Councilor Monahan:

(1000 great distance, beyond downtown, where would we put them, won't be able to put them anywhere)

Comments by Councilor Farwell:

(many abandoned buildings throughout the City, doesn't need to be downtown, the kids are worth an extra 500 feet, focus should not be on those who want to be in the industries but the kids)

Comments by Councilor Monahan:

(1,000 ridiculous requirement, retail store, inside sales, doesn't make senses, southside, northside)

Comments by Councilor Cruise:

(concern re license daycare center included, disqualifies a lot even with the expansion for schools to 1000 feet, concerned that we'd be subject to challenge)

Comments by Councilor Farwell:

(willing to compromise and propose 100 foot buffer for just schools)

Comments by Councilor Cruise:

(asked Rob May to get map showing 750 foot buffer, and 1000 foot buffer for schools)

Comments by Councilor Rodrigues:

(2 mile walk to school, walking by the facilities, early childhood centers, interested in included, due diligence instead of focus on buffer distance)

Comments by Councilor Sullivan:

(need to see the layout with 750, 1000, only 3 public libraries, needs to be considered)

Comments by Councilor Beauregard:

(concerned about buffer situation, libraries, programs at the libraries, strong proponent of buffers from school, responsibility to do the best we can, retail shops in southside, lots of letters and emails from residents to express these concerns)

Comments by Councilor Rodrigues:
(interested in 501 foot buffer)

Comments by Councilor Farwell:
(look at safe street data)

Comments by Councilor Monahan:
(enclosed establishments, state said 500 foot buffer, need businesses downtown,
the rest will be spread out, 1000 feet too big)

Comments by Councilor Sullivan:
(could always amend down, not guaranteed to be in this Ordinance Committee)

Comments by Councilor May:
(interested in community impact fee being spending on funds downtown, wants to
fund bike/foot cops downtown, downtown ambassador program for cleaning)

Comments by Councilor Sullivan:
(wants to invite the DA's office to comment)

Comments by Councilor Farwell:
(downtown can be measurably better, but other areas in town are missing out,
shouldn't be so wedded to downtown area, other viable business districts, where
do the ward councilors want it)

Motion by Councilor Cruise to Postpone Agenda Item # 2 until the Next Ordinance Meeting, 2nd
by Farwell, condition on receiving maps from the City Planner, motion carried unanimously.

Comments by Councilor Sullivan:
(wants to meet right away for next Ordinance Meeting)

The meeting was adjourned at 9:02 p.m.