

Roll Call

A special work session of the Kalamazoo City Commission was held on Monday, April 27, 2020 at 6:00 p.m. This meeting was held as an electronic meeting under the authority of Executive Order 2020-48 issued by Governor Gretchen Whitmer. The purpose of the meeting was to discuss proposed ordinances and a social equity policy for marihuana commercial businesses.

COMMISSIONERS PRESENT:

Mayor David Anderson
Vice Mayor Patrese Griffin
Eric Cunningham
Jeanne Hess
Erin Knott
Chris Praedel
Jack Urban

COMMISSIONERS ABSENT:

None

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

2020-0124

Presentation and
Discussion re: Marihuana
Commercial Business
Ordinances and Social
Equity Policy

City Planner Christina Anderson, Diversity, Equity, and Inclusion Director Dorla Bonner, and City Attorney Clyde Robinson delivered a presentation entitled *Adult Use Marihuana (Recreational) Summary of Drafts: Zoning Code; Social Equity Policy; License Requirements*. A copy of the slides from this presentation were filed with the papers for this meeting.

Commissioner Urban questioned whether the reduced separation distances for social equity businesses were requested by the Eastside, Edison, and Northside Neighborhoods and whether there had been any feedback from these neighborhoods.

In response to Commissioner Urban, City Planner Anderson explained that residency in one of the identified neighborhoods by a majority of the owners of a business was an eligibility criterion for the reduced separation distances, but the business did not need to be located in one of those neighborhoods. City Planner Anderson stated staff had developed the social equity eligibility criteria based on what was being done in other cities and the Shared Prosperity Kalamazoo target neighborhoods. City Planner Anderson stated she was not aware of any feedback from the neighborhoods on this particular issue.

City Attorney Robinson explained the reduced separation distance benefit was developed in direct response to feedback provided at the second public input session, where people identified the lack of affordable, marihuana-eligible properties as a barrier to making social equity real for City residents. City Attorney Robinson stated the reduction in separation distances for social equity businesses was designed to open up more eligible properties for those businesses and help keep property costs down. City Attorney Robinson noted staff had tried to spread out potential facility locations so that no single neighborhood was impacted more than another.

In response to a question from Commissioner Hess, City Attorney Robinson confirmed that until 2021 a medical marihuana facility license was required in order to receive any of the adult use facility licenses listed in green on Slide #4.

In response to a question from Commissioner Hess about proximity to rehab facilities and halfway houses, City Planner Anderson explained that adult-use and medical marihuana facilities were regulated under two different legislative acts, and there were more buffered uses allowed under the medical facility act than the adult use facility act. City Attorney Robinson added the adult use statute did not specifically grant zoning authority, and there could be legal challenges if the City went too far beyond the buffered uses allowed in statute.

Commissioner Cunningham noted the communities most impacted by marihuana were African American communities according to the data, but the City was not able to require majority ownership by African Americans for a business to qualify as a social equity business. Commissioner Cunningham stated the use of census tracts was the City's attempt to focus on the parts of the community that had been most negatively impacted by marihuana. Commissioner Cunningham stated business ownership was a key provision of the social equity program for him.

In response to a question from Commissioner Cunningham, City Attorney Robinson indicated staff had investigated what other communities were doing for social equity, but none of their plans, except maybe Flint's were as robust as what staff was proposing for Kalamazoo.

Director Bonner noted all of the social equity programs in the state were new, and it was too early to tell what was going to work.

In response to questions from Commissioner Cunningham, City Attorney Robinson stated it was difficult to calculate how much money would be available to fund the social equity program, but a rough estimate might be \$250,000 in the first year the City started receiving funds from the excise tax. City Attorney Robinson explained the social equity program was being presented as a policy resolution rather than an ordinance because a resolution was easier to change and offered more flexibility. City Attorney Robinson stated there had been no feedback on removing the marihuana event license from the proposed ordinances.

In response to a question from Commissioner Praedel, City Planner Anderson reported people at the public input sessions had indicated high property values were a barrier for social equity businesses. City Planner Anderson stated the limited number of sites for medical marihuana Provisioning Centers had caused property values to spike in those areas, which is why the proposed ordinance expanded the permitted zoning districts for adult use marihuana facilities. City Attorney Robinson added the real estate market would be different for the "fill-in" areas being sought by social equity businesses.

In response to a question from Commissioner Praedel, City Planner Anderson explained the Planning Commission did not oppose allowing marihuana businesses downtown, but they wanted this use included in the upcoming evaluation of downtown zoning as a whole.

In response to a question from Commissioner Praedel, City Planner Anderson confirmed the Class A Grower, Microbusiness, and Consumption Establishment adult use licenses did not require applicants to have an existing medical facility license, but the other adult use licenses did have that requirement until 2021. Director Bonner added one of the first uses of social equity funds would be to support a business incubator where experienced operators could help prepare social equity businesses for when there were no licensing restrictions.

2020-0124

Presentation and
Discussion re: Marihuana
Commercial Business
Ordinances and Social
Equity Policy (cont'd)

2020-0124

Presentation and
Discussion re: Marihuana
Commercial Business
Ordinances and Social
Equity Policy (cont'd)

Public Comments

Mayor Anderson thanked City Planner Anderson for her clarification about the Planning Commission. Mayor Anderson noted the proposed ordinances had been molded already by both public input and the Planning Commission review process. Mayor Anderson discussed next steps in the process for adopting the ordinances.

City Manager Ritsema noted the May 4th meeting would be a virtual meeting, as the Governor's stay-at-home order would still be in effect. City Manager Ritsema stated it was not clear yet whether the May 18th meeting would be virtual meeting or an in-person meeting with social distancing, as the executive order allowing virtual meetings was set to expire on May 12th.

Vice Mayor Griffin noted both the black and brown communities had been disproportionately impacted by marihuana.

When an opportunity was given for public comments, the following people addressed the City Commission:

Gayle, a City resident, described how her asthma and allergies were being impacted by the marihuana plants in her neighbor's back yard, and she asked why the City was allowing people to grow marihuana outdoors in residential neighborhoods.

Jeff Messer, City resident, called on the City Manager and Parks and Recreation Director to reopen City parks in light of the Governor's executive order from April 24th. Mr. Messer noted people continued to visit the parks, but the City was not enforcing the closures.

Jerry Griffin, a representative of Pincanna, a Michigan-based cannabis company, discussed the Planning Commission's removal of the CCBD zoning district from the proposed ordinance as an acceptable district for Marihuana Retailers. Mr. Griffin stated the issue was the name of the downtown district and not whether marihuana Retailers would be allowed in the district. Mr. Griffin asked the City Commission to restore the CCBD district to the proposed zoning ordinance or create an overlay district that would allow Retailers to operate in the CCBD.

Omar Fakhouri, non-resident and a marihuana business owner in the City, expressed concern about the over-saturation of marihuana facilities that would result from the zoning district and separation distance requirements in the proposed ordinance. Mr. Farkouri suggested the City keep a wide range of permitted zoning districts for marihuana businesses but increase the required separation distances between individual businesses. Mr. Farkouri expressed support for reducing or eliminating permit fees for social equity businesses, and he suggested allowing reduced separation distances only for the adult-use licenses that did not require a medical facility license.

John Abbo, an attorney representing Loom, questioned whether the language in Section 20B-19B of the proposed licensing ordinance would prevent employees from eating their lunch on the premises of a marihuana business.

In response to Gayle, City Attorney Robinson explained state law allowed people over 21 year of age to grow up to 12 marihuana plants on their property, as long as they could not be seen from a public vantage point.

In response to a suggestion from Commissioner Urban, City Attorney Robinson explained that changing the state statute would be a challenge because it was citizen initiated, which would require a $\frac{3}{4}$ vote of each chamber of the legislature to amend.

In response to Mr. Messer's request, City Manager Ritsema explained the parks were closed to give the Public Safety Department a tool to enforce the prohibition on large gatherings. City Manager Ritsema stated there was also a resource issue with keeping parks open.

In response to Mr. Griffin, City Planner Anderson stated the downtown rezoning work may result in marihuana businesses not being allowed in some parts of the downtown.

In response to Mr. Fakhouri, City Planner Anderson explained the City did not typically use zoning to address business saturation issues. City Planner Anderson stated the City could eliminate the permit fees, but there was work that needed to be funded.

In response to Mr. Abbo, City Attorney Robinson explained Section 20B-19B was referring to food service, not employee lunches. City Attorney Robinson indicated he would clarify the language in this section.

In response to a question from Commissioner Urban, City Attorney Robinson stated he would need to check the statute to be able to say for certain whether "edibles" were considered food or a marihuana infused product.

Finally, an opportunity was given for miscellaneous comments of City Commissioners.

Commissioner Urban stated he was pleased to learn the proposed Social Equity Plan was one of the strongest in the state. Commissioner Urban expressed hope that the effect of the policy would be as salutary as the intentions of the creators.

Commissioner Hess stated Kalamazoo was an education City, and she thanked staff for including an education piece in social equity plan. Commissioner Hess thanked City staff and the Planning Commission for their work.

Commissioner Cunningham thanked the Planning Commission and City staff for their work. Commissioner Cunningham stated he wanted City Commissioners to understand the gravity of the decisions at hand and suggested people would make judgements about these decisions 100 years from now. Commissioner Cunningham stated the Commission need to be intentional and think things through completely. Commissioner Cunningham stated he was hurt because the City had to use proxies to talk about social equity rather than talking about it for what it was. Commissioner Cunningham indicated he would be reaching out to consultants in the industry to get their input, as he was not convinced the City had explored all its options.

Responses to Public
Comments

City Commissioner
Comments

City Commissioner
Comments

Vice Mayor Griffin thanked the Planning Commission and City staff for their work. Vice Mayor Griffin stated she felt good about the staff involved and their good intentions to use the lens of equity during application reviews and permit renewals. Vice Mayor Griffin asked the community to review the draft documents and provide feedback.

Commissioner Knott congratulated Commissioner Praedel on the birth of his son.

Commissioner Praedel thanked the healthcare workers who were helping his family.

Mayor Anderson remarked that people were being asked to wear masks when out in public, and he stated this was a little thing that showed a care and concern for others. Mayor Anderson noted people who did not have the symptoms of COVID-19 could still carry and transmit the virus.

Adjournment

The meeting adjourned at 7:51 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 8, 2020

Approved by: _____
David F. Anderson, Mayor
Dated: September 8, 2020

This page was left blank intentionally.