

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

May 2, 2016
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Stokes, Deputy Mayor Chelminiak, and Councilmembers Lee, Robertson, Robinson, and Slatter

ABSENT: Councilmember Wallace

1. Executive Session

Deputy Mayor Chelminiak called the meeting to order at 6:02 p.m., and declared recess to Executive Session for approximately 40 minutes to discuss two items of potential litigation.

At 6:42 p.m., the City Clerk announced that the Executive Session would be extended for approximately 10 additional minutes.

The meeting resumed at 6:55 p.m., with Mayor Stokes presiding.

2. Study Session

- (a) Update on Marijuana legislation, current regulations, and direction on medical marijuana cooperatives, research licenses, and civil penalties and abatement actions for violating certain provisions of the Cannabis Patient Protection Act.

City Manager Brad Miyake introduced staff's update on marijuana legislation and policy questions for the Council's consideration. He recalled that the Council adopted regulations in 2015 and subsequently requested more information in February 2016. Certain issues remained unresolved by the Council and there was a decision to wait for the State to establish more specific rules related to the most recent legislation.

Mike Brennan, Director of the Development Services Department (DSD), noted that staff is seeking Council direction on several policy issues.

Catherine Drews, Legal Planner, said the first policy question for Council consideration is whether the City should allow or ban medical marijuana cooperatives in single-family residences. Medical marijuana collective gardens, previously prohibited by the City, will be prohibited under state law beginning July 1. Medical marijuana cooperatives of four patients

growing a maximum of 60 plants will be allowed under state law. The marijuana must be grown within housing units with one cooperative per tax parcel. The cooperatives must register with the State and are subject to search.

Mr. Brennan noted that the City's current regulations prohibit all types of marijuana-related businesses in single-family residences.

Ms. Drews said medical marijuana will be sold in retail stores and patients are allowed to grow up to 15 plants in their own homes.

Deputy Mayor Chelminiak said he would prefer to not allow medical marijuana cooperatives in residential zones. He said they are essentially a business and it would be difficult to enforce the limit of four patients.

Councilmember Robertson concurred, noting that cooperatives are a commercial type of use that is not appropriate for single-family or multifamily neighborhoods. She expressed concern about public safety and security issues related to having marijuana and cash in individual homes as well. She said she is comfortable with allowing patients to grow marijuana for their own use, however.

Councilmember Robinson wants to be sure that patients have access to medical marijuana, and individuals will be able to purchase it at retail stores. Responding to Ms. Robinson, Ms. Drews said retail stores will be able to obtain an endorsement to sell medical marijuana. The stores are required to meet Department of Health regulations, including completing a certification process to learn about selling medical marijuana. Ms. Robinson expressed support for the Deputy Mayor's comments.

Councilmember Lee concurred with his colleagues, noting that medical marijuana is available for purchase as an option to cooperatives. He supports banning the cooperatives in both single-family and multifamily housing.

Councilmember Slatter said she would like to stay consistent with the Council's past direction to keep marijuana businesses out of neighborhoods. However, she believes it is important for people to have access to medical marijuana.

Mayor Stokes noted a Council consensus in support of prohibiting medical marijuana cooperatives in single-family and multifamily homes.

Ms. Drews said the next policy question for the Council's consideration is whether the City should allow or ban marijuana research as a permitted use. All research must be approved by the Life Sciences Discovery Fund, which is a group organized by the state legislature charged with studying related health issues for Washington citizens. Research entities may produce, process or possess marijuana for limited research purposes. Marijuana grown by a licensed researcher can only be sold to another researcher, and they are allowed to partner with the University of Washington or Washington State University. If the Council chooses to allow marijuana research

uses, Ms. Drews said staff recommends restricting the use to light industrial districts where producers and processors are already allowed.

Councilmember Lee said he believes that research should be conducted by universities and other established institutions. He expressed concern about the credentials and legitimacy of the researchers.

Deputy Mayor Chelminiak expressed support for marijuana research given the questions, concerns, and general lack of scientific knowledge about marijuana. He said the Life Sciences Discovery Fund is an excellent organization.

Responding to Councilmember Robinson, Ms. Drews said research is allowed if approved by the Life Sciences Discovery Fund, despite marijuana's status as a Schedule 1 drug. Ms. Robinson questioned whether it would be possible to require researchers to be connected to a university. Ms. Drews said she would look into that question. Ms. Robinson said she supports the importance of marijuana research.

Councilmember Slatter questioned whether there is a definition for marijuana researcher in state law in terms of criteria for researchers and partnerships. She expressed an interest in the Life Sciences Discovery Fund's guidelines. Ms. Drews said she would get back to the Council with information on that topic.

Councilmember Robertson said board members of the Life Sciences Discovery Fund include two state senators and two state representatives, and she anticipates that the board will be effective in vetting the applications. She is in favor of allowing research and wants to be sure that research uses comply with regulations for marijuana producers and processors, including odor control.

Mayor Stokes concurred with the Deputy Mayor's comments. Mr. Stokes suggested that staff bring the issue back with the requested information and proposed policy refinements.

Continuing, Ms. Drews said the third policy question for the Council's consideration is whether the City should consider adding civil penalties for illegally growing or processing medical marijuana in a housing unit. This would be in addition to criminal penalties.

Councilmember Robertson questioned whether the Land Use Code's provisions related to growing marijuana, abatement, and general code enforcement. Ms. Drews said that, typically, Land Use Code provisions are linked to Chapter 1.18. Ms. Robertson said she supports the enforcement of both criminal and civil penalties. Ms. Drews suggested also looking at the Nuisance Code as a way to address odor and other issues. Ms. Robertson said there should be enforcement if the Council puts standards and requirements in place.

Responding to Councilmember Lee, Mr. Brennan said that more tools for staff to use contributes to more effective enforcement. As examples, he said it might be most appropriate to address an odor issue through the civil violation process but to address more serious marijuana growing

violations through a criminal process. Mr. Lee observed that there might not be a need for additional penalties at this time, but they could be considered in the future.

Mayor Stokes suggested further Council discussion on this topic.

Deputy Mayor Chelminiak questioned how additional penalties would improve enforcement for the benefits of residents. Ms. Drews said it might be more effective and efficient to have Code Compliance Officers, versus the Police, handle certain issues. There are issues that most likely can be adequately addressed through a civil approach, allowing Police Officers to direct their efforts elsewhere. Code Enforcement Officers could also provide education and seek voluntary compliance first, which benefits the public.

Councilmember Slatter said she likes the idea of a holistic approach and a number of enforcement options. Responding to Ms. Slatter, Mr. Brennan said all civil and criminal cases are documented, and the data can be analyzed if desired to determine the effectiveness of using both mechanisms.

Responding to the City Manager, Mr. Brennan said staff has the direction it needs to conduct further study and provide additional information.

Ms. Drews introduced an update on the impact of recreational marijuana legislation in the community. Four retail marijuana licenses were initially allocated to Bellevue. Three retail outlets and three producer-processors are currently in operation. In 2015, the state legislature combined medical and recreational marijuana regulations. The Liquor Cannabis Board allocated four additional retail licenses to Bellevue, for a total of potentially eight stores. In 2016, the City received applications for two new retail stores in Factoria and Eastgate. The City has received additional notices from the LCB for the City's review of potential stores locating in Bellevue. All current applicants propose both retail and medical marijuana sales.

Crime Prevention Detective Amanda Jensen presented data on marijuana policing in Bellevue. There was a decline in marijuana arrests of youth from 2014 to 2015. Individuals under the age of 21 are generally continuing to obtain marijuana through the black market. According to the Liquor Control Board, all three of Bellevue's retail stores passed random checks for compliance including refusing to sell marijuana products to minors.

Detective Jensen said a survey of high school students, as well as input from school counselors and the Police, indicates that the top problem in Bellevue schools continues to be alcohol use. Marijuana stores have reported eight cases of theft since opening two years ago, while there have been 30 reports of retail alcohol theft during the past three months.

Mr. Brennan said the three current stores are located in the BelRed area, Downtown, and Wilburton. Stores can potentially locate in Crossroads, Factoria and Eastgate under current regulations.

Mr. Brennan recalled that the Council previously raised questions about whether the City's marijuana regulations should be amended. Possible refinements include: 1) adding a separation from residential zones, 2) limiting the number of stores in a subarea, 3) requiring additional community outreach before locating a new business, 4) increasing separation from sensitive sites, and 5) collecting and monitoring data to assess the performance of existing regulations.

Responding to Councilmember Robinson, Mr. Brennan said three stores are open. An additional store was licensed but was not able to open due to its proximity to one of the other stores. Two new applications have been received for a store in Factoria and a store in Eastgate. If the Council chooses to change the City's regulations, applications submitted to date would be vested under the current regulations.

Deputy Mayor Chelminiak questioned how a vested retail store would be handled if a change in regulations results in the store being out of compliance with the new rules for locating stores. Ms. Drews said the Council could explore how it would want to treat that nonconforming use. She said they can be grandfathered over a period of time. Mr. Chelminiak said he wants the public to understand that any changes in the City's regulations will not affect the existing three stores and two active applications, except for potentially changing their status to a nonconforming use.

Responding to Councilmember Robertson, Ms. Drews said the first interim zoning ordinance was adopted by the Council in October 2013. Ms. Robertson observed that it is appropriate to consider refinements at this time. She is particularly interested in considering whether to add a separation from residential zones and to limit the number of stores within a subarea. However, she said it is important to implement the will of the voters and to allow access to medical marijuana. She supports collecting and monitoring data regarding the performance of the regulations.

Councilmember Robinson questioned the priority placed on individuals, including youth, smoking marijuana in a park or other venue. Detective Jensen said calls are prioritized by the 911 dispatchers based on certain criteria. She could provide more information to the Council on that topic. She noted that School Resource Officers handle many of the cases and she can request information from them as well.

Councilmember Lee observed that the City continues to learn about marijuana regulations and their impact. He is interested in considering refinements, especially with regard to the separation from other uses and the number of stores within a subarea. He supports expanding community outreach to specific target areas.

Responding to Councilmember Slatter, Detective Jensen said additional community outreach is generally beneficial and provides the opportunity to educate and hear from the public.

Ms. Slatter concurred with Councilmembers' comments and expressed support for considering refinements to the regulations. She understands the medical benefits of marijuana and agrees with Councilmember Robertson that it is important to implement the will of the voters. Ms.

Slatter noted the benefits of marijuana to treat and reduce seizures. She said it has been used since 3000 B.C. for a number of diseases and ailments.

Councilmember Slatter asked staff to come back with the possible refinements and a discussion about how to balance the retail and medical uses of marijuana. She said community and patient education is important as well.

Mayor Stokes thanked the Council for their comments and said there will be further discussion. He thanked Detective Jensen for her report.

At 7:49 p.m., Mayor Stokes declared recess to the Regular Session.

Kyle Stannert
City Clerk

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