

Safety Committee Minutes

Honorable Council
City of Newark, Ohio
October 31, 2017

The Safety Committee met in Council Chambers on Monday, October 30, 2017 following the Street Committee with these members present:

Mark Fraizer, Chair	Jonathan Lang
Jeremy Blake	Carol Floyd
Jeff Rath	

We wish to report:

1. **Ordinance No. 17-55** enacting Chapter 850 of the Codified Ordinances of the City of Newark, Ohio to impose licensing requirements for medical marijuana facilities operating within the City of Newark, Ohio.

Mr. Fraizer- the State of Ohio has allowed medical marijuana facilities to come forward and the City of Newark has decided not to impose a moratorium so that allows us to set the rules and conditions in place in order for businesses to be informed and have a process in which they can do business. The biggest pieces that we see throughout the state is a specific requirement to allow for inspections to occur by both the Chamber of Commerce and the City of Newark and that provision has been included in here to make sure we are following the provisions of the city and the State to make sure everyone is operating legally. The other piece of this is to allow for a licensing requirement and a \$500.00 fee to make sure that we are provided with the most up to date application information in the licensing requirements as well as making sure any changes in ownership or filing is communicated to by the city. Because of significant issues with staffing and additional overhead a lot of that onus is on the individual dispensaries, retailers, cultivators and the processors to make sure they are communicating with us and it is in their hands to communicate and we have the enforcement area as well.

Mr. Blake- Section 850.03, if you could explain for me when it talks about the application following the Department of Commerce and in the line it says in additional to any other information required by the Director? What would be an example of something required by the State and something additional that would be required by the Safety Director?

Mr. Fraizer- the big thing was allowing the Safety Director to creating the application to form so maybe something like emergency contact information would be something

additional that would improve the response of safety forces and also retain transparency.

Mr. Blake- what is required on the State, do we know?

Mr. Fraizer- the applications are out there. What you are looking at is a business plan, emergency plan and a security plan; it is very comprehensive as far as transparency as to how their business operates, what the security is and who the individuals responsible are. It is a very long application with a lot of sections that really covers the full gamut for the State. We are requesting that application to us so that we can see what is in their application so that they are transparent with us and the Safety Director has the power to request additional information as required.

Mr. Blake- I am just trying to understand if the state application is that comprehensive what the Safety Director would require here additionally and let me get more to my point, what would be a reason where an application would come in and the Safety Director would deny that? What would be reasons for him to deny that? How much flexibility are we giving this one appointed official?

Mr. Fraizer- the power really is on the Safety Director in order to oversee the application process however the way this is written and the Law Director isn't here so we may need him to clarify but the way that I understand it is that if they are following the Department of Commerce and they are following the licensing fee and there is an application available for them that they should be allowed to do business here. Safety Director do you have anything that you would like to interject that you might be looking for denial?

Safety Director Baum- I did not consider that someone who has been approved by the State would be disallowed by local government. I would be interested more on the nature of contact information, 1st, 2nd and 3rd chains of command where if there is an emergency of some type that we can make sure we someone to get ahold of. I would want a copy of the state application simply so I didn't have to contact the State to find out some of the information that they plan on using. I think permit might be a better word to consider it that does make more sense?

Mr. Blake- later on in this legislation section 850.05 talks about the renewal of the application or permit the term you just used. It seems to me that it is placing the responsibility on the owner to have a sort of honor code that if they update anything with the state they have to also update your office. I don't know if the state notifies local municipalities, if they made changes it seems you may not know.

Director Baum- what I could say to that is if we are available to inspect them I could almost assuredly, maybe not guarantee you but I would have every intention to inspect them at least once during the year of the application period. That would include communication with the business owner on any changes they might have made certainly following any violations we think we observed. The initial permit no I couldn't ever see taking any issue with that and denying it but down the road if they didn't follow the plan that we agreed to and we all know that government is shrinking rather than getting bigger if the State wasn't able to properly inspect all of these places or maybe not in a timely manner possibly then our inspection would be communicated to the

State that we found what we believe to be violations and ask them for their interpretation and that may affect following permits.

Mr. Fraizer- there is a revocation piece for the State of Ohio where the State revokes a license and they are required to contact local law enforcement so if there is revocation at the state level Director Baum or the Police Department would be contacted.

Director Baum- obviously we would hope that we have good relationship with this business owner just like with any other business owner and that would never have to happen but we would like a mechanism in place in case that ever happened.

Mr. Blake- that leads into this last section of section one where it says that we are allowing the Director of Public Safety or him through the law enforcement, Police Department probably to do searches; do we have to still establish probable cause to go into them?

Director Baum- not under implied consent, no. We wouldn't need to find a probable cause or a specific reason to go into the facility to do an inspection.

Mr. Fraizer- Director Baum we currently have this for other institutions within the city today this implied consent clause specifically with skilled games?

Director Baum- with skilled games and certain facilities like a government facility you don't have the expectation to not be searched or inspected yourself going into the courthouse, domestic relations and soon to be our city building there is going to be implied consent in passing through a magnetometer and a metal detector.

Mr. Blake- where did the \$500.00 figure come from?

Mr. Fraizer- there is a debate on the best way to tax this, one way that Akron and Cleveland is doing it is 1% surtax. What we heard in previous committees is that cost is passed on to consumers. We wanted to cover the cost for the administration of the file and filing and the update. The \$500.00 figure seemed a fair figure for what that cost matched as a fee if there is a better amount I'd be open to hear it.

Mr. Rath- if you have a straight \$500.00 fee versus the 1% surtax wouldn't that cut down on administrative costs as well as collecting and accounting?

Mr. Fraizer- the accounting piece would probably be pretty difficult too but we tried to make a streamline process that everybody could get behind and understand and use and encourage businesses.

Mr. Mangus- related to this \$500.00 fee, my understanding is that the State charges the fee every two years and in my discussions with Law Director Sassen he expressed concerns to me about assigning any fee because that could be equated by the medical marijuana business as a tax. My concern is if we are doing this every year and the State is doing it every two years I could see the business having a much stronger legal ground to call this a tax which has to be approved by local voters because we are maxed out at our tax limit. Has this concern been addressed by the Law Director?

Mr. Fraizer- you are allowed to tax this company so this surtax that is going on is specifically for medical marijuana through facilities throughout the State of Ohio for local municipalities. The State has given us the power to set the conditions in place including charging a surtax for this business only. The other piece of that is the one year renewal is in case there are any violations that we are made aware of quicker and that

we keep our books up to date every year because by doing this they have an obligation to keep us informed, notified and communicate at least every year with us.

Mr. Mangus- I guess I have a concern here that we are listing it as a fee and you are saying the word tax and as a municipality I thought that we had to have our taxes approved because of where we are at tax wise with our...

Mr. Fraizer- I never used the word tax this is a licensing/permit fee. You were trying to ask me what other municipalities were doing

Mr. Mangus- no I am concerned about the \$500.00

Mr. Fraizer- do you have any other questions Mr. Mangus

Mr. Mangus- I just have a concern about the \$500.00

Mr. Fraizer- we appreciate that concern sir. Is there any other comments or questions

Motion by Mr. Rath to send to full Council, second by Mr. Lang

Motion passed by a vote of 3-2 (Floyd, Cost)

Mark Fraizer, Chair