



AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: SEPTEMBER 4, 2018

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT:

Bill No. 2018-20 - ABEYANCE ITEM - possible action - Amends LVMC 6.95.090 to limit the availability of business licenses for retail marijuana stores to those that will be operated in conjunction with a medical marijuana dispensary at the same location and with the same ownership. Sponsor: Councilman Bob Coffin

Fiscal Impact

- No Impact Augmentation Required
 Budget Funds Available

Amount:
Funding Source:
Dept./Division:

PURPOSE/BACKGROUND:

This bill will amend LVMC 6.95.090 to limit the availability of business licenses for retail marijuana stores to those that will be operated in conjunction with a medical marijuana dispensary at the same location and with the same ownership. The bill was requested by the sponsor as a follow-up measure to a general marijuana update ordinance adopted in May of this year.

RECOMMENDATION:

Abeyance to the September 4, 2018 Recommending Committee Meeting from the July 30, 2018 Recommending Committee Meeting.

BACKUP DOCUMENTATION:

1. Bill No. 2018-20
2. Submitted at Meeting Proposed First Amendment by Staff and Letter from Mark Bradley, Green Leaf Farms Holdings, by Christine Kramar

Motion made by MICHELE FIORE to Hold in abeyance to 10/15/2018

Passed For: 2; Against: 1; Abstain: 0; Did Not Vote: 0; Excused: 0
BOB COFFIN, MICHELE FIORE; (Against-STAVROS S. ANTHONY); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

COUNCILMAN ANTHONY declared the Public Hearing open.

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CHIEF DEPUTY CITY ATTORNEY VAL STEED stated before the Committee was a proposed First Amendment, which is attached. In summary, the First Amendment states someone can only get a new retail marijuana store license in conjunction with a medical marijuana dispensary under the same ownership, but if there are no new medical marijuana State licenses available, then one can operate a retail store by itself but would have to follow the guidelines set forth on Page 7 of the proposed First Amendment. He read several of these guidelines relating to visibility of the product, priority service of valid registered identification cardholders, the types of products offered, and providing educational information to customers upon request. He noted there are also some clean-up provisions regarding adding the kinds of regulations that previously applied to medical marijuana to retail stores.

COUNCILMAN COFFIN explained when he requested the original bill draft eight to nine months ago, he did not know that the State was no longer going to issue medical marijuana licenses. His belief has always been there is a medical necessity for marijuana, but upon finding out a few months later that no medical licenses were being issued by the State, the bill would have essentially stopped all new retail. He pointed out there is a major licensee who has invested a lot of money and has a good reputation in town that needs one of the recreational retail licenses. He indicated he discussed this with CITY ATTORNEY RICHARD JERIC, and the City does not want to put somebody out of business which the original ordinance would do. He asked staff for an explanation why it was imposed upon him to have this First Amendment to keep a good business in business. MR. STEED clarified that the original bill and the proposed First Amendment operate on new applications and never affected anyone that was already licensed. Only new retail applications would have to follow these guidelines. ASSISTANT CITY ATTORNEY BRYAN SCOTT thought it would be helpful if Business Licensing provided the history of Acres Medical.

DARCY ADELBAI-HURD, Business License Section Manager, explained Acres Medical had a medical marijuana establishment license, was granted the retail and is operating as dual use. Through lawsuits, the State rescinded their medical marijuana license, but is allowing them to operate the retail portion on its own. The City's current ordinance allows them to continue to operate in this fashion; one can be medical, retail or dually licensed.

The original ordinance to maintain the medical component with the retail component would have affected Acres Medical in that they could not operate retail on its own. The proposed First Amendment would allow them to operate retail but under specific conditions. MR. SCOTT indicated the basis of the lawsuit was that they were ranked inappropriately by the State, and they won their ranking back.

COUNCILMAN COFFIN asked why Acres Medical did not currently have a retail license. MS. ADELBAI-HURD clarified they do currently have a retail license and are operating legally according to the State and the City. MR. SCOTT added they do not have a medical marijuana license.

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MR. STEED disagreed with these comments and read an excerpt from the original proposal. He stated if Acres Medical already had a license, then this ordinance never applied to them even prior to the proposed First Amendment.

COUNCILMAN ANTHONY stated if this ordinance were to pass, any recreational application would have to have two windows; one for recreational sales and one for medical marijuana sales. MR. STEED stated as written, that was correct; however, the proposed First Amendment acknowledges there may not be any future State medical marijuana licenses so it states one can operate solely as a retail marijuana store if certain conditions are met. He wanted the Committee to understand that the City ordinances never take away business licenses without due process including a revocation hearing. The ordinance was never intended to affect any existing licensing.

COUNCILMAN ANTHONY was confused as to why the ordinance was needed. The City is going to be allowed to issue additional recreational marijuana licenses, and the City Council will decide whether to give those out, where to put them, etc. He restated he did not understand the purpose of the ordinance.

MR. STEED explained if the original proposal was approved, anyone coming forward in the future asking for a retail marijuana store could not have it unless they also had a medical marijuana dispensary license under the same ownership. The proposed First Amendment recognized that may be too strict because if the State possibly not issuing any more medical marijuana licenses, no new retail marijuana stores could be approved. The First Amendment will allow a retail marijuana store to operate by itself under the conditions listed on Page 7.

COUNCILMAN COFFIN was not sure if he misunderstood the representations made by Acres Medical because he believed without the First Amendment, they would be put out of business. As he now understands it from legal counsel, they would not be put out of business; they would still have a retail business. MR. STEED confirmed. As such, the Councilman stated the only reason now for the First Amendment would be to require that medical still be a key component of all marijuana stores.

Discussion took place between the Councilmembers regarding their understanding of whether a medical marijuana license was required. MR. STEED distinguished between having medical marijuana for sale and having a medical marijuana license. The proposed First Amendment states a medical marijuana license is not required because new applicants cannot get one, but if someone wants to have retail only, the City wanted some offerings to be made for medical patients.

PETER ISHAK, President of the Nevada Growers and Producers Association, which is comprised of several licensed growers and producers in the state of Nevada, stated the difficulty with allowing new recreational licenses and having to dedicate a section for medical patients was that medical patients would still be paying recreational prices. They go to a medical facility to avoid the excise tax. The only preferential treatment they would receive at a retail store would

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be going to the front of the line. Additionally, as a recreational store, they are not allowed to adhere to medical potency levels because they are not a medical facility. They would basically be giving a recreational product to a medical patient with no other benefits.

He pointed out they have spent up to \$20 million in some of their facilities and employ up to 70 people. They would like the opportunity to receive one of the recreational retail licenses.

COUNCILMAN ANTHONY asked if the producers had an issue as opposed to the growers. MR. ISHAK stated they all have issues because they applied for a dispensary license in the beginning but did not get one. They stood the test of time and spent a lot of money and for them to not be allowed to apply for these licenses, they felt was unfair. If this ordinance is adopted, they would not be allowed to apply for these licenses.

COUNCILMAN COFFIN asked if the State required a recreational store that sells to medical patients under the circumstances outlined in the First Amendment to pay the 10 percent excise tax. MR. STEED deferred to staff. MS. ADEBAI-HURD believed the State would still require the 10 percent excise tax at the point of sale regardless of who they sold it to.

NATHAN TAYLOR, appeared representing a cultivator, and requested this item be abeyed for many reasons of which he stated a few. There are a lot of stakeholders that do not understand some of the language and thought it needed to be tweaked. MR. TAYLOR thought holding the item and moving forward with something like this in the future was a good idea, but as COUNCILMAN COFFIN mentioned, he believed there were going to be 10 more licenses issued for retail marijuana. He also looked into some issues related to being vertically integrated (i.e., cultivators who may wish to get in the retail business), the issue with the taxes just discussed and all of the jobs that would be affected. His client has 42 employees. They want something passed, but they want it to be right the first time.

MARK BRADLEY, CEO Green Leaf Farms, stated he originally applied for a dispensary license four years ago, but did not get one. He now has plans for an 18,000 square-foot medical wellness center connected to a dispensary. Currently, he is operating under a cultivation only license, but he thought it was important to be vertically integrated for several reasons. He pointed out what is happening in the market. There are 28 states with medical and eight with recreational marijuana. Nevada is the only state where the wholesale price is continuing to climb. Overall, it is higher than any other state, which is causing the retail price to be higher and the black market to be bigger. There are also fewer options since not everyone is vertically integrated for medical and adult-use patients.

MR. BRADLEY thought more people should be given the chance to get the 10 licenses; otherwise, there would be less product, and there will be less diversification. Their facility they plan on building will have between 46 and 50 employees, and they are looking to pay \$1.6 million in taxes. He thought the ordinance was unclear and needed to be refined. He supported having a medical section but did not support limiting this to people who already have a medical marijuana dispensary license.

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CHRISTINE KRAMER, Green Leaf Farms, was opposed to the ordinance and would like it stricken. She submitted a letter for the record on behalf of MR. BRADLEY which is attached in the backup. She also gave a shout out to the trades that were present and stated each marijuana facility will cost approximately \$1 million to build, and she would like to see those trades put to work.

COUNCILMAN ANTHONY thought the ordinance was very confusing and convoluted, and he was not sure he supported it. COUNCILWOMAN FIORE did not think the ordinance was workable as it was and suggested abeying this item for 45 days to create something clean and fresh.

COUNCILMAN ANTHONY noted if the Committee recommended not passing the ordinance, it would move forward to the City Council for a final vote. COUNCILWOMAN FIORE stated she would prefer to abey it until the language was cleaned up instead of giving it to their peers as written. COUNCILMAN COFFIN agreed that the bill needed to be cleaned up.

After COUNCILWOMAN FIORE motioned to abey this item for 45 days, COUNCILMAN ANTHONY asked what would happen after 45 days. COUNCILWOMAN FIORE stated the bill needed to be cleaned up, and COUNCILMAN COFFIN noted it needed to be rewritten. MR. STEED stated the only way to make it clean would be to start over.

Discussion took place amongst the Committee members regarding killing the bill or abeying it to the October 15, 2018 Recommending Committee Meeting. COUNCILMAN ANTHONY stated he would be voting no on a motion to abey it because he thought it needed to die and for staff to start over.

COUNCILMAN ANTHONY declared the Public Hearing closed.

Subsequent to the vote, MR. SCOTT asked that those persons with recommendations or comments to forward them to MR. STEED or one of the Committee members so that their information could be incorporated.