



Sheldon Neeley
Mayor

CITY OF FLINT

FLINT PLANNING COMMISSION

Special Meeting Minutes August 17th, 2022

Commissioners Present

Robert Wesley, Chair
Carol-Anne Blower, Vice-Chair
Harry Ryan
Leora Campbell
Robert Jewell
April Cook-Hawkins

Staff Present

William Vandercook, Zoning Coordinator
Joanne Gurley, Assistant City Attorney
Jonathon Mateen, Planner I
Max Lester, Planner I

Absent:

Lynn Sorenson, Secretary

ROLL CALL:

Chairperson Wesley called the meeting to order at 5:36 p.m. Roll was taken, and a quorum was present.

The meeting was held both in-person in the Dome Auditorium and via Zoom and phone conferencing as approved.

Roll Call:

Commissioner Ryan: appearing in-person
Commissioner Campbell: appearing
virtually from Flint, MI
Commissioner Blower: appearing in-person
Commissioner Jewell: appearing in-person

Commissioner Cook-Hawkins: appearing
virtually from Flint, MI
Commissioner Sorenson: absent
Chairperson Wesley: appearing in-person

ADDITIONS/CHANGES TO THE AGENDA:

Chairperson Wesley asked if there were any proposed additions or changes to the agenda. None were suggested.

ADOPTION OF THE AGENDA:

Commissioner Blower motioned to accept the agenda as presented. Commissioner Campbell seconded the motion.

M/S – Blower/Campbell

Unanimously carried by voice vote



Sheldon Neeley
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CITY OF FLINT

FLINT PLANNING COMMISSION

PUBLIC FORUM:

No one spoke. No other communications.

SPECIAL MEETING DISCUSSION:

Glossary

CRA – Cannabis Regulatory Agency

DCE – Designated Consumption Establishment

MMFLA – Medical Marihuana Facilities Licensing Act

MMRA – Medical Marihuana Regulatory Act

MRTMA – Michigan Regulation and Taxation of Marihuana Act

TME – Temporary Marihuana Event

Introduction and Overview

Andrew Brisbo, Director of the Michigan Cannabis Regulatory Agency (CRA), spoke. Mr. Brisbo gave a background of the CRA stating the agency oversees all aspects of cannabis licensing, regulation, and policy in the state inclusive of the Patient and Caregiver Registry Program under the Michigan Medical Marihuana Act (MMRA). Mr. Brisbo added that they oversee the Medical Marihuana Facilities Licensing Act (MMFLA) and the Michigan Regulation and Taxation of Marihuana Act (MRTMA), and that the agency recently took over authority for processor handlers under the Industrial Hemp Research Development Act. Mr. Brisbo said that at present there are over 1,300 licensed medical facilities in the state and close to 1,700 adult-use licensed facilities. The agency's approval is predicated on local approval which is a part of the application process with the CRA. This year the state is on track to reach \$2.1 billion in sales of the total market, last year \$42 million was distributed in revenue share, split between the counties and municipalities based on prorated share of the number of adult-use retailers and microbusinesses present in those communities. In Michigan, the agency can create new license types through administrative processes, such as the Class A Marihuana Microbusiness, Temporary Event License, and Designated Consumption Establishments.

Mr. Brisbo added that per the Temporary Marihuana Event (TME) License, an event organizer would apply for the TME license and would be the only one granted a license for a specific event. This would involve a background evaluation for overall eligibility for licensure. Each TME license would need to have proactive approval by the host municipality before the issuance. It is also required applications for TME licenses be submitted 90-days before the planned event to give the agency time to review. Those events can have on-site consumption, sales through licensed retailers and microbusinesses, or both. These events can be standalone or a part of a broader operation, but the agency's regulatory authority would extend just to the portion of the event that would include consumption and sales. The CRA adopts standards for TMEs such as advertising, ensuring the events are only accessible by

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FLINT PLANNING COMMISSION

individuals 21 and over, requiring insurance coverage and liability coverage, and consideration for overconsumption and overservice.

Mr. Brisbo discussed the Designated Consumption Establishment (DCE) License, which is for a fixed location that allows for consumption on-site. The DCE license does not have a specific allowance for sales. A focus on DCEs are the health and safety of staff and patients as there may be prolonged exposure to marijuana products. There are currently only two DCEs in the state which act as event spaces rather than spaces where there is regular ongoing consumption. Mr. Brisbo said there has been overlap in license types such as DCE and TME, where a temporary event is held in a designated consumption area to allow for sales in that space.

Questions and Answers

Commissioner Blower asked if mobile food truck units (**mobile marijuana trucks*) would fall under a TME license or would they be regulated in another way. Mr. Brisbo answered that there is no license that would allow for a mobile medical facility or adult-use establishment. What is allowed is mobile deliveries, medical products can be delivered to the home of the patient or caregiver and adult-use products to a residential address or a DCE. Secure transporters are also allowed to be licensed to transfer product between licensed businesses. Mr. Brisbo stated that at this time there is no regulation that would allow for a food truck type component in the cannabis space, adding that licensees may transport a certain amount of their own product to TMEs without the use of a secure transporter, though licensees typically will hire a secure transporter so that they may transport product in bulk.

Commissioner Jewell asked if TME organizers have control and oversight over which licensed businesses may participate in the TME. Mr. Brisbo answered that the marijuana event organizer would be licensed through the State which would allow them to submit TME applications. Fees are assessed based on the level of participation by licensees. If sales are allowed the application would list all licensees that will participate, and these are reviewed. Commissioner Jewell restated the question as to whether the TME organizer can decide who can participate as a licensee. Mr. Brisbo confirmed that TME organizers can determine which licensed retailers and microbusinesses can participate. Mr. Brisbo added that if there was a violation of laws or agency rules at a TME, the agency would investigate and determine which entity or entities were liable.

Commissioner Ryan asked if hemp is related to marijuana and how it is classified, specifically in terms of textiles. Mr. Brisbo answered that the CRA licenses businesses to sell cannabis products specifically, which need to be tracked through the regulated supply chain, these being products sold at provisioning centers or microbusinesses. Mr. Brisbo stated they do not prohibit licensees from selling branded merchandise and paraphernalia.

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CITY OF FLINT

FLINT PLANNING COMMISSION

Bill Vandercook, Zoning Coordinator, asked about the license map on LARA's website and why a license would show as active while being expired. Mr. Brisbo answered that if a licensee submits a timely renewal application and the State denies the application, there is a right to appeal the decision and the license remains active throughout the appeal process which could make it to circuit court. Mr. Brisbo added that the map may not be as up to date as a database search.

Chairperson Wesley asked if a license ceases to exist when it expires. Mr. Brisbo said it may depend on the action of a licensee. If they failed to submit a timely renewal application, they do not have the authority to continue to operate. If a renewal application was submitted, they may continue to operate while the application is reviewed and during an appeals or adjudication process. Mr. Brisbo added that if there was disciplinary action being taken, such as a concern about imminent threat to health, safety, and welfare of continued operations the agency would have the authority to summarily suspend a license.

Mr. Vandercook asked if it is true that the CRA has a new application form that does not require the City Clerk to sign an attestation and the applicant can sign an attestation that states they are compliant with the municipality's requirements. Mr. Brisbo confirmed that this was an update in the latest round of rulemaking, now the agency will reach out directly to the municipality to evaluate eligibility under the local ordinance for new applications and renewals. Mr. Brisbo stated that they felt this was more in line with the statutes and that the agency found they would still need to follow up with municipalities regardless under the old system.

Commissioner Jewell asked a follow-up question if the applicant is still responsible to meet all the criteria fulfillment. Mr. Brisbo confirmed that they are and the attestations that are required are not the only materials that are considered.

Mr. Vandercook asked if there is a cap on the number of stacked licenses for medical or adult-use grows. Mr. Brisbo answered that there is not a cap on the number of co-located licenses, however, they need to be under common ownership to not have to be physically separated. Mr. Brisbo added that the individual licenses, whether they are applied for at the same time or at different times would need to be approved by the local municipality prior to the issuance of a State license.

Attorney Gurley asked a follow-up question if each license needs to be approved individually. Mr. Brisbo answered that they are approved individually regardless of when they are submitted. Each license is given a distinct number with certain contexts, such as tracking plants, being viewed at a facility level. Attorney Gurley asked what the agency is looking for in terms of approval when an applicant is seeking additional licenses for a location when they already have a license for that

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location. Mr. Brisbo answered that the background eligibility would not occur for someone who already holds a license but would instead look for local approval or evaluate any structure expansions.

Commissioner Jewell asked a follow-up question if a facility needs to be able to handle the requirements for additional plants. Mr. Brisbo answered that applicants are required to report any structural changes and that if there were structural changes or additional equipment added the agency would evaluate this prior to issuing additional licenses.

Mr. Vandercook asked what the State's position is on collocating in grandfathered facilities, specifically in terms of collocating an adult-use provisioning in a location that is grandfathered for medical provisioning. Mr. Brisbo asked for clarification on what is meant by grandfathered. Mr. Vandercook replied that some sites in the City of Flint were opened prior to zoning ordinances being adopted and were grandfathered because later ordinances would not allow provisioning to be in these areas. Mr. Brisbo clarified that he would not be in a position to provide a legal opinion on the enforceability of the local ordinances to those facilities, however, the State's perspective is that the dispensaries that were open prior to the MMFLA were permitted to continue operations by the State during the pendency of their application up until 2017. Mr. Brisbo stated that there are no facilities remaining in the State that are operating in that capacity without licensure and the facilities that were granted licenses had to meet all the standards of operation including having local approval. Mr. Brisbo added that any provision center that applies for a license as a retailer is subject to the same conditions as any other applicant for licensure as a retailer and has to meet all conditions of licensure both at the initial time for eligibility as well as for continued operation. Mr. Brisbo stated that he can not speak to the impact of ordinances that were adopted by the City after the opening of those businesses or after they were granted State licensure, however, at the state level they accept municipal attestations at face value and do not attempt to dictate whether their ordinances are lawful or enforceable. The State looks for an attestation from the City Clerk that the facility is eligible for licensure, if the municipality determines it is not eligible it will likely end in a denial of the license application or renewal application. This could lead to a litigation process.

Attorney Gurley asked a follow-up question as to how municipalities are not to treat medical and adult-use differently under the state law. Mr. Brisbo asked if she was referring to the provision that prohibits the prohibition of collocation. Attorney Gurley confirmed. Mr. Brisbo answered that Section 6 of MRTMA provides requirements and boundaries for municipal ordinances, this is what allows municipalities to prohibit or limit the number of marijuana establishments. Subsection 5 indicates a municipality may not adopt an ordinance that restricts the transportation of marijuana through the municipality or that prohibits a marijuana grower, a marijuana processor, and a marijuana retailer from operating within a single facility or from operating at a location shared with a marijuana facility operating pursuant to the MMFLA. Mr. Brisbo added that this has been interpreted in a few different ways that he does not believe has been litigated yet. Mr. Brisbo believes most have interpreted that to

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say you could not have separate locations that were approved as provisioning centers from retailers or prohibiting vertically integrated facilities, adding that it has been proposed by some to say it requires municipalities to give provisioning centers retail licenses. Mr. Brisbo added again that he can not say which interpretation is more correct and that it will likely have to be litigated at some point.

Attorney Gurley asked for clarification on the prequalification stage for an applicant that was mentioned earlier. Mr. Brisbo answered that it was established with the MMFLA, as many of the qualifications under both laws relate to the operator of a facility more so than the facility itself. The prequalification step allows the agency to procure a thorough background investigation of the applicants, in most cases those are business entities, so that includes individuals who operate managerial control or meet the ownership threshold. Once this step is completed the applicant is free to apply for whichever licenses they are seeking. The prequalification step is agnostic to the types of licenses that will be sought.

Mr. Vandercook asked about background checks, saying his understanding is that the State only uses the Internet Criminal History Access Tool (ICHAT) and that there is no background as far as records from other states. Mr. Brisbo said that this is not accurate. Under the MMFLA there is language requiring each of those individuals to go through a State Police and FBI fingerprint criminal history check. This language is not in the MRTMA, however, the CRA runs background investigation through partners at the Michigan State Police, though they are not authorized to do fingerprint checks on the adult-use side. The ICHAT process is used for evaluating caregivers under the Michigan Medical Marihuana Act. Chairperson Wesley asked if the agency uses NCIC. Mr. Brisbo answered that they use NCIC on the medical facilities, but they do not have that authority for adult-use side, but the agency does have processes to evaluate applicants' records in other states than just Michigan.

Attorney Gurley asked about applicants that have a substance related offence in the past ten years and how this relates to the State's scheme for social equity. Mr. Brisbo answered that the MMFLA requires licensees to conduct background investigations of prospective employees, and if that check indicated a pending charge or conviction in the past ten years for a controlled-substance related felony, a licensee shall not hire a prospective employee without written permission of the Board. The reference of authority to the board has since been transferred to the CRA. This language is not found in the MRTMA which is the law that established what is commonly called the social equity program. Mr. Brisbo shared that this information is expanded on in the video series on the CRA website.

Mr. Vandercook asked what the sales amount of marihuana was in 2021. Mr. Brisbo answered that the projected amount is \$2.1 billion. Mr. Vandercook asked what the agency or State is doing to protect against negative effects to the public health, safety, and welfare. Mr. Brisbo answered that the agency's goal is to establish model guidelines. The agency is required to give licenses to those who qualify but municipalities have the option to determine how marihuana fits into their community. Mr. Brisbo

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answered that legalization on Michigan is about five years old so there is not much historical data to draw on yet, but the agency publishes data monthly. Mr. Brisbo said that a primary tenet of adult-use legalization in Michigan is preventing access to youth or marketing to young people, and the agency authorizes grant funds for research on the effect of cannabis for veterans with PTSD. Mr. Brisbo added that the cannabis industry existed in Michigan prior to legalization, and now with legalization and regulation consumers now have a way of purchasing cannabis products that are subject to the State testing regime and can ensure they are free of contaminants.

Mr. Vandercook asked if facilities with stacked licenses can cause issues in terms of air quality or stormwater pollution and if this is something the agency is considering. Mr. Brisbo said that the agency has recently been working to improve their relationship with the Department of Environment, Great Lakes, and Energy (EGLE) including establishment of a Sustainability Workgroup which EGLE participates in. This workgroup has components that focus on air quality, water quality, and environmental sustainability.

Chairperson Wesley asked if the municipality should determine a limit for what a supergrow is and where they should be in terms of zoning. Mr. Brisbo said that he would defer to the municipality's ability to self-regulate. The agency does not distinguish zoning requirements based on the sizes of grow operations, only that to be eligible for State licensure grow operations need to be in areas that are zoned industrial, agricultural, or unzoned.

Attorney Gurley asked for Mr. Brisbo's thoughts on how cannabis is progressing in the State and how we compare to states like Colorado. Mr. Brisbo answered that he believes the market in Michigan has achieved maturity faster than most other states. One example of this is that there is no State level cap on the number of licenses, instead municipalities can limit the number themselves. Additionally, with increased competition the price of wholesale and retail products has decreased.

Attorney Gurley said that counties get half of the sales amount in the county compared to the city receiving the full amount of retail sales and asked if Mr. Brisbo was aware of any communities that have partnered with the counties so that the county participates more in activities with the municipality in terms of marijuana regulation, enforcement, and approval process. Mr. Brisbo stated that he was not aware of any but that is not to say that this does not happen.

Mr. Vandercook asked if the term homegrown used earlier referred to caregivers, and if there was any regulation the State was considering for caregivers. Mr. Brisbo answered that there was no authority in that statute for regulatory oversight by the agency and that is simply a registry program. The only qualification to be a designated caregiver on behalf of any given patient is related to some disqualifying criminal history requirements. Any change to that would require a change to the 2008 initiated law. Mr. Brisbo stated there was pending legislation on the floor of the House that would

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make significant alterations to the caregiver program, allowing some commercial aspects and requiring some oversight. Mr. Brisbo added that this is pending legislation and has not been passed, if it ever will or that it could see significant changes.

Mr. Brisbo thanked the Commission and stated the agency will continue to be a resource for the City before leaving the meeting.

Commissioner Campbell said that discussions held in the future may need to go more in depth on aspects the Commission has not considered, such as stacking licenses and asked if the Commission should review the two-hour long video that was mentioned or if the Commission or staff have already viewed it. Mr. Mateen said staff could locate the videos and forward it to the Commission. Commissioner Blower asked Attorney Gurley if the videos are worth viewing. Attorney Gurley stated that she believes they are, they go into detail in terms of the process from a legal perspective and from the perspective of applicants.

ADJOURNMENT:

M/S – Jewell/Blower

Unanimously carried by voice vote.

Meeting adjourned at 6:45 PM.

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