

GLADSTONE PLANNING COMMISSION MINUTES

Council Chambers August 5, 2019

1. Meeting called to Order- Roll Call. Chair McGee called the meeting to order at 7:00 p.m.

Commissioners present were: Chase Cookson
Mike Ebenroth
J.N. Hernandez
Alicia Hommon
Katie Middleton
Kim Murch
Bill Turnage
Jennifer McGee, Chair

Not present: Gary Markenson
James New
Larry Whitton

Also present: Jean Moore, Mayor Pro Tem
Scott Wingerson, City Manager
Bob Baer, Assistant City Manager
Alan Napoli, Building Official/Com Dev Administrator
Austin Greer, Assistant to the City Manager/Planning Administrator
Cheryl Lamb, Administrative Assistant

2. Pledge of Allegiance to the United States of America.

3. Approval of Previous Meeting Minutes: July 15, 2019. Chair McGee asked if there was a motion to approve the minutes from the July 15, 2019 meeting. Mr. Turnage moved to approve the minutes; Ms. Hommon seconded. The minutes were approved, 8-0.

4. Other Business. None.

5. Public Hearing: Medical Marijuana Ordinance. File #2019-010.

Chair McGee opened the Public Hearing. She said they would start with the staff report. Then there would be an opportunity for members of the public to speak in opposition, followed by an opportunity for members of the public to speak in support of the application. After that, there would be time for the Planning Commission members to ask questions and discuss the issue.

The scope of the hearing was limited specifically to:

1. The hours of operation for these facilities.
2. The type of zoning these facilities can go in.
3. A setback requirement for these facilities.

She asked the Commission to refrain from wandering outside the scope of these into personal philosophy on marijuana or any things that don't pertain to the use of the facilities.

Mr. Greer presented the Staff Report:

“On November 6, 2018, Missouri voters approved Constitutional Amendment 2, establishing a right to access medical marijuana and establishing steps for state permits related to the use, cultivation, manufacturing, distribution, and dispensing of medical marijuana for qualifying patients. As such, the City needs to amend local ordinances regarding medical marijuana, particularly with regard to land use regulations.

Cities may not expressly or effectively prohibit medical marijuana facilities. However, cities may regulate the “time, place, and manner” of the operation of medical marijuana facilities as long as the regulations are not “unduly burdensome on the operation” of the facility. Amendment 2, which was approved by Missouri voters, allows up to a 1,000 foot buffer between a medical marijuana facility and a primary or secondary school, child day-care center, or church. Cities may choose to lessen or waive the buffer requirement but cannot make it greater than 1,000 feet.

There are four types of medical marijuana facilities:

- Medical Marijuana Cultivation Facilities are where the plants will be grown, harvested, and processed.*
- Medical Marijuana Infused Products Facilities are where edibles or lotions are made.*
- Medical Marijuana Testing Facilities will test the quality, strength and purity of the medical marijuana, and is required for all products that will be sold at dispensaries.*
- Medical Marijuana Dispensary Facilities are commercial facilities licensed to store and sell medical marijuana products and paraphernalia to those with medical marijuana cards.*

These proposed amendments are based upon the rules published by the Department of Health and Senior Services (DHSS) on May 24, 2019.

City Staff recommends that medical marijuana dispensaries be located in zoning districts C-2 General Business Districts and C-3 Commercial Districts and operate during the hours of 7:00 a.m. and 10:00 p.m. It is also staff’s recommendation that that medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana infused products manufacturing facilities, and medical marijuana transportation facilities are located in a zoning district C-4 Small Warehouse & Storage District and open between the hours of 7:00 a.m. and 10:00 p.m.

No Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, Medical Marijuana Dispensary Facility, Medical Marijuana-Infused Products Manufacturing Facility, or Transportation Facility shall be initially sited within seven hundred and fifty feet (750) of any then-existing school, child day-care center, or church. Measurements shall be made in a straight line, without regard to intervening structures, from the nearest point of the property line of a school, child day-care center, or church, to the nearest point of the property line containing the medical marijuana business.

Or, No Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, Medical Marijuana Dispensary Facility, Medical Marijuana-Infused Products Manufacturing Facility, or Transportation Facility shall be initially sited within seven hundred and fifty feet (750) of any then-existing school, child day-care center, or church and one hundred and fifty feet (150) of any building

containing a residential unit or single family home. Measurements shall be made in a straight line, without regard to intervening structures, from the nearest point of the property line of a school, child day care center, church, or building containing a residential unit or single family home to the nearest point of the property line containing the medical marijuana business."

Mr. Greer summarized by referring to the PowerPoint slide on the overhead. There are only a couple of categories that cities can control from a land use perspective since this was approved by the voters last year.

1. The hours of operation for these facilities.
2. The types of zoning these facilities can go in to.
3. What the setback requirements are in feet.

The Commission would need to come to a consensus on one (1), two (2) and three (3) on the screen, make a motion, and hold a vote on the topic. He then deferred to Chair McGee.

Chair McGee asked if there was anyone in the audience who wanted an opportunity to speak in opposition to this ordinance. None.

Chair McGee asked if there was anyone in the audience who wanted an opportunity to speak in favor of this ordinance. None.

Chair McGee opened discussion to the Planning Commissioners.

Ms. Middleton asked if there was a reason for the two different setbacks.

Mr. Greer replied that there are two options. The first one is 750 feet which is standard regulation. The second option is a little bit more intrusive and that is where it comes into the residential units. The reason for that is the City of Gladstone is pretty linear when it comes to our layout. Some of our conventional locations have very shallow lots; which means they back up to residential homes. They wanted to have the option to attempt to make that a little more restrictive. It is either one option or the other.

Mr. Cookson said he understands that the setback requirements for liquor establishments are 300 feet in the City of Gladstone. He was curious about the rationale that the City relied on.

Mr. Greer shared that they had many long conversations on the topic. In their eyes, alcohol and marijuana aren't viewed in the same way, at least not yet. Plus this is strictly a cash business at this point. Also, the federal government does quite recognize medical marijuana, it is still illegal. There is a difference, at least in their eyes.

Mx. Hernandez asked if they had factored in the square mileage of Gladstone when they came up with the 750. They said that, comparing the numbers provided, Liberty is about 30 square miles and they are looking at 300 feet setbacks versus North Kansas City which is about half the size of Gladstone, almost four and one-half (4 ½) square miles. They are at 300 feet. They wanted to know if putting it at 750 really limits the number of businesses that could possibly come in and bring in jobs.

Mr. Greer said they didn't think so. They did their research and looked at what other cities are doing right now. Some did 300 and some did 1,000. Given that Gladstone is nine (9) square miles, they believe there is adequate zoning and setbacks for 750 feet. When they looked at it, the maps were in their packets, 1,000 feet was a little restrictive. They know there are differing opinions on the matter. They thought that 750 would be a good middle

point to compromise on. That is how they settled on the 750. They do think there are plenty of locations at those setbacks.

Mr. Cookson addressed Mx. Hernandez's concerns. He said he did play around with the setback requirements on Google maps, essentially asking the same question. He wanted to know if it would have the practical effect of completely eliminating this kind of economic activity in the City. It looks like, at least on the primary commercial corridors, there is enough space where somebody could possibly open one up.

Mr. Greer agreed.

Mr. Murch asked Mr. Cookson if he considered the 150 residential set back when he did that.

Mr. Cookson said he did not. He only looked at the 750 for churches and the others.

Mr. Murch asked if there was any place in the City that would qualify when you consider residential as well.

Mr. Greer said there would be some locations off the Antioch corridor and the North Oak corridor that would work. There are also some locations, if you were to recommend the 150 that it wouldn't.

Mr. Murch asked for clarification on what is some.

Mr. Greer said that off the top of his head he didn't want to give any specific locations. That could be an unfair advantage for somebody else to try to come in.

Mr. Murch asked if it was 20 locations in the City.

Mr. Greer said he couldn't answer that question at this time, but they can definitely look into it.

Mr. Turnage asked if the idea of what size cultivation, (inaudible); is that land-based or building-based.

Mr. Greer felt it could be a combination of the two. He said they don't see Gladstone being a manufacturing hub. North Kansas City, with all the warehouse space they have, they've heard that they will be manufacturing hub, one of the largest ones in the country. They think Gladstone will get a couple of dispensaries, maybe two or three at the most. He thinks it is a little bit far-fetched that they will get any type of manufacturing. He's not saying it wouldn't happen, but probably not likely.

Mr. Turnage asked if it was the same as the blending and testing.

Mr. Greer shared that he believes that falls under manufacturing. He just doesn't see it happening necessarily, but not to quote him on that. He thinks that dispensaries are likely.

Ms. Middleton asked if the hours of 7 a.m. to 10 p.m. are general business hours.

Mr. Greer said pretty much. They looked at what some of the adjacent cities are doing and a lot of them range from 6 a.m. to 11 p.m., 7 a.m. to 10 p.m. They thought with the Gladstone community 7 a.m. to 10 p.m. made a lot of sense.

Mr. Murch asked Austin to reiterate what the dispensary rules are. Not just from the setbacks, but are there any other rules that were set in the vote.

Mr. Greer asked him to repeat his question.

Mr. Murch said he is curious on a dispensary what other rules apply. He heard there could only be ten (10) people in a facility or everything is under lock and key.

Mr. Greer said he is not an expert on that portion of it. He's not an expert on anything when it comes to medical marijuana. Tonight he is prepared to talk about the top three things on the board. They are heading to address medical marijuana through Public Safety and building codes and different things like that. That will take place with other portions of staff throughout the City. He just can't answer that question accurately.

Mr. Murch asked if he can address the question he asked before on what a transportation facility is.

Mr. Greer shared that it was a really good catch and something they will have to define better. He said four particular facilities, but it may be five and they can make that adjustment.

Mr. Murch asked what would be a transportation facility.

Mr. Greer said it would be something like distribution where medical marijuana is brought there in large quantities and distributed to dispensaries throughout a certain region. He would compare it to something like a liquor distribution center, but not to that size.

Chair McGee asked a question about the conditions, number E, the hours of operation. It says no sales or distribution of marijuana shall occur upon the premises or by delivery from the premises between the hours of 7 a.m. to 10 p.m. She asked for clarification if that is preventing them during the day or preventing them during the night.

Mr. Greer said that it is their understanding that no business will be conducted between the hours of 7 a.m. to 10 p.m. He would have to check with the lawyers exactly. He asked if she is asking if employees can come in ahead of time to set up.

Chair McGee replied that she is confused about whether 7 a.m. to 10 p.m. negates a period during the day. She would expect people who are going into a medical marijuana dispensary would want to visit during these hours rather than at 3 a.m.

Mr. Cookson shared that he thinks it's the language. It might be an error or a typo.

Chair McGee said it should be 10 p.m. to 7 a.m.

Mr. Greer agreed. He said they will fix that.

Mx. Hernandez asked if they were deciding between A or B, or are both provisions in there.

Mr. Greer said they were suggestions and if the Planning Commission feels differently about 750 they can certainly have that discussion whether it should be 750 or 800 or 600. It just depends on how they feel. If they are good with the 750, then yes, they can vote on that if they like. They don't have to three individual votes. If they can come to a consensus on all three and take one vote that is completely ok.

Mr. Murch addressed Austin by stating that this is something he didn't want to address tonight, and asked would a pharmacy qualify as a dispensary; a pharmacy that has all kinds of drugs to start with.

Mr. Baer replied that this is a cash business only. It is still considered not legal at the federal level. He doesn't believe they will see Walgreens and CVS carrying medical marijuana. It's not recognized from a federal standpoint.

Mr. Murch agreed that was true as of today, but what happens when it is recognized.

Mr. Baer said they would have to amend what they already have. Amendment 2 is what they are voting on tonight. Amendment 2 has clearly spelled out what the rules are. That is why so many people are able to apply for these dispensary licenses without any kind of pharmaceutical license. It's not like a pharmacist will be doing this.

Mr. Murch asked if they will try to get in on the money.

Mr. Greer said that is hard for them to determine at this time; who will get into this or if CVS or Walgreens will.

Chair McGee asked if anyone wanted to express an opinion on option A versus option B. She asked if they were happy with the 750 or do they want to consider something else.

Ms. Middleton shared that she is ok with the more restrictive on this.

Mr. Turnage said that option B would be his preference.

Ms. Hommon agreed.

Mx. Hernandez said that they were feeling option A, especially considering the fact that it already outlines on the ventilation requirements in how it is preventing an odor. They would still have security requirements and such. It seems excessive to include also the residential setback as well. Gladstone has a lot of empty buildings that need some businesses put in and we need jobs in the area.

Ms. Middleton doesn't feel that it would hurt anybody's opportunity.

Mx. Hernandez said it might affect one family in Gladstone.

Mr. Turnage said, before they decide on this, he wanted to ask what would happen if one dispensary comes in and wants to establish a business there, outside the setback so it's not a violation there. He asked if there is any chance that people who live closely, like residents, would they have a chance to say no they don't want this.

Mr. Greer said if the zoning is correct they can go in. It wouldn't have to go before the Planning Commission.

Mr. Cookson shared a comment that he would like to see smaller setback requirements. He would like see them consistent with liquor despite the federal treatment of marijuana. At the same time, given what it looks like to be the practical effect, he is fairly ambivalent. That's where he stands.

Mr. Greer addressed Chair McGee and said that, if it will make it a little easier, if she wants to go down the line and take a vote on each issue, then they could knock those out.

Chair McGee started with hours of operation. She asked if there was a motion to accept the hours of 7 a.m. to 10 p.m.

Mx. Hernandez made a motion to amend it to 10 p.m. to 7 a.m.

Mr. Greer said that if everybody has a consensus with that then number 1 is approved.

Mx. Hernandez clarified that instead of the hours being as written on E. as 7 a.m. to 10 p.m. it would be reversed to 10 p.m. to 7 a.m.

Chair McGee said the motion on the floor is to accept the open hours of 7 a.m. to 10 p.m. with the corrected line in the evening.

MOTION on the HOURS OF OPERATION: By Mx. Hernandez to accept the hours with an amendment on the hours the facilities shall be closed to 10 p.m. to 7 a.m., seconded by Mr. Murch, Medical Marijuana Ordinance, File #2019-010. The motion carried 8-0.

Chair McGee said the next item was the type of zoning these facilities will go in to.

MOTION on the TYPE OF ZONING: By Mr. Cookson, seconded by Mr. Murch, to approve medical marijuana dispensaries to be located in zoning districts C-2 General Business Districts and C-3 Commercial Districts, and manufacturing and transportation facilities be located in zoning district C-4 Small Warehouse & Storage District, Medical Marijuana, File #2019-010. The motion carried 8-0.

Chair McGee opened the discussion on the setback requirement in feet.

A motion was made by Mr. Ebenroth to approve the recommended setback of 750 feet including the setback of 150 feet for residential; seconded by Ms. Middleton.

Chair McGee called for a roll call vote on the setbacks.

MOTION on the SETBACKS: By Mr. Ebenroth, seconded by Ms. Middleton, to approve the recommended setback of 750 feet from any school, child day-care center or church, and 150 feet from any residential unit or single family home, Medical Marijuana, File #2019-010. The motion carried 6-2.

6. **Possible Meeting Day Change – Discussion.** Mr. Greer shared that they have had a lot of interesting projects come to the Planning Commission in the past year and some of those could have used some legal counsel. He asked if they would be open to the idea of, and have the discussion of changing the Planning Commission night from Monday nights to some other day of the week.

Ms. Middleton asked if it was so legal could attend the meeting.

Mr. Greer confirmed that it was so legal representation could be there, if they were needed for the meeting. Our legal counsel is always booked on Monday nights and it is extremely difficult to have them here if there is a difficult project. They are looking to see if another night works better for the Planning Commission and our legal counsel.

Mx. Hernandez asked what days are best.

Mr. Greer suggested that Tuesdays and Thursdays are the best two days. He's not sure if that works for everybody, Tuesday would probably be preferred.

Ms. Middleton, Mr. Murch and Ms. Hommon were fine with Tuesdays.

Mr. Cookson shared that it was hard for him to know. He travels for work so Monday is probably the easiest, but if it works for everybody then he can make Tuesdays work.

Mr. Greer said he appreciates their flexibility. He wasn't prepared to solidify this tonight so this is fantastic. Not saying it will happen, but if they are open to it, that would be great.

Mx. Hernandez said they would prefer that they move whatever meetings need to be moved because Tuesdays are really rough for them. They are only one of the group, so that's cool if that is what they do.

Mr. Greer wasn't sure how the group feels about special sessions; if that is something they like to do very often. They don't like to spring things on them but, for special projects that could be an option too; keep most of the nights on Monday nights, but if legal counsel is needed maybe they could move to a different night of the week. He asked if they were open to that.

Ms. Middleton confirmed she was open to that suggestion.

Mr. Greer clarified that would be the more preferred option for them, and possibly Tuesdays too. He appreciated their feedback.

7. Communications from City Council. None.

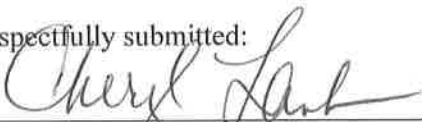
8. Communications from City Staff. Mr. Napoli shared that they were still trying to get the sign code to them for review. Part of that is City legal counsel not available on Monday nights so he needs to do a Tuesday or Thursday night. They may see a Tuesday night coming up soon to get that back in front of them.

9. Communications from Planning Commission Members. Ms. Hommon shared that she has an intern with her for two weeks from Florida learning about entrepreneurship. She was able to be present at this meeting and it really fun to have her see what it's like to be an integral part of a city.


10. Adjournment. Mr. Ebenroth motioned to adjourn; Mr. Cookson seconded.

Chair McGee adjourned the meeting at 7:26 p.m.

Respectfully submitted:


Cheryl Lamb, Recording Secretary

Approved as corrected _____


Jennifer McGee, Chair

Approved as submitted 