



MEETING OF THE CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, July 11, 2019
2:00 PM

APPROVED ACTION MINUTES

I. Call to Order – 2:02 pm

A. Roll Call and Ex Parte Communication Disclosures

Commissioners present: Cooper, Cable, Poindexter, Lardner, and Bella An (substitute for Svec-Burdick).

Absent: Brewster (excused), Svec-Burdick (excused), Malmuth (excused).

Staff Present: Secretary Elizabeth Greene and Paola Boylan.

B. Changes to Order of Agenda

None.

- II. **Public Comment:** Three comments. The Chair of the Homeless Commission (HC) announced that the HC voted to recommend using taxes generated by cannabis businesses to provide shelters for the homeless. Staff clarified that taxes are already being collected and are currently being added to the General Fund. Other comments included a reference to the late item and a question about the two sets of minutes.

III. Approval of Minutes

A. June 6, 2019 Draft Action Minutes

Motion/second to approve June 6, 2019 Draft Action Minutes (Cooper/Cable).
The motion carried 5-0-0-2. (Ayes: Cooper, Cable, Poindexter, An, Lardner.
Noes: None. Abstain: None. Absent: Svec-Burdick, Malmuth.)

B. June 13, 2019 (Special Minutes) Draft Action Minutes

Motion/second to approve June 6, 2019 Draft Action Minutes (Cooper/Cable).
The motion carried 5-0-0-2. (Ayes: Cooper, Cable, Poindexter, An, Lardner.
Noes: None. Abstain: None. Absent: Svec-Burdick, Malmuth.)

IV. Planning Staff Report

Secretary Greene announced that with three excused absences and one substitute commissioner, the quorum for any action at this meeting will be three votes.

V. Chairperson's Report

None.

VI. Subcommittee Report

None.

VII. Discussion and Action Items

A. Discuss proposed changes by staff to the Cannabis Ordinance

City staff provided commission members with a series of topics to facilitate discussion regarding the proposed cannabis ordinance. Secretary Greene reviewed of changes made since the last Cannabis Commission meeting. Language throughout the Zoning Ordinance was changed to make it easier to use, and most did not change policy direction. The only changes to policy direction relate to Delivery-Only Retailers and Storefront Microbusinesses. Staff recommended changing the recommendation for Delivery-only Retailers in M-prefixed districts to match Warehouse based Non-Store Retailers, since it would be a very similar use.

In regards to Storefront Microbusiness, staff recommends changing the manufacturing component from repackaging only (Type P License) to repackaging and infusions (Type N) to align with state regulations.

Overall, staff reported that new definitions presented to the committee add clarification to allow people to more easily distinguish between business types.

Public Comment:

Four comments. The draft language references BMC sections that don't exist – staff clarified that City Council approved language for the municipal code in May, but the information has not been updated on the City's website. The public expressed concerns that manufacturers would not be able to add delivery-only retail to their business by right, and concern that restrictions on ground floor delivery-only Retailers would conflict with ADA regulations. There should not be a finite number of dispensaries because it will limit retailers, and signage restrictions may leave a select number of retailers at a disadvantage. Finally, there was a question about the possibility of getting a microbusiness license but not operating as one.

Delivery-only Retailers (D-oRs)

Quotas: Commission members discussed whether quotas should exist for D-oRs. There was discussion around setting a quota to give people something to react to. However, commissioners determined that quotas are restrictive and would prefer to let the market decide the number of D-oRs in Berkeley. The need to allow D-oRs to locate within Berkeley was also emphasized during the discussion.

Motion/second to agree that no quota will be set by the committee for D-oRs (Cooper/Poindexter). The motion carried 4-0-1-2. (Ayes: Cooper, Poindexter, An, Lardner. Noes: None. Abstain: Cable. Absent: Svec-Burdick, Malmuth.)

Buffers and ground floor restrictions: Agreed with staff recommendations.

D-oRs in Manufacturing districts: The commission agreed with current staff recommendation.

Discretion for Businesses

Non-Equity Storefront Retailers

Staff explained that the updates to this sections would allow the selection process to be moved forward through a Use Permit instead of going through council. The commissioners agreed with staff recommendation.

Signage

Signage for D-oRs in Manufacturing districts: The commission agreed with staff recommendation to treat D-oR signage in M areas like manufacturing uses.

Depictions of cannabis: The commission expressed that since the public has approved the legalization of cannabis, then depictions of cannabis should not be prohibited on business signs.

Change in Location

Good standing requirement: The Commission recommended removing 23C.25.010.A from the ordinance.

Retail Storefront Microbusiness

Should these be different from other Microbusinesses: Staff explained that updates made to this section are geared towards treating these retail types similar to other existing retailers with similar business practices. Overall, the commission agreed that the updates seem to allow more flexibility to microbusinesses, but within limits. The commission agreed with staff recommendation.

CHC Recommendations

The Cannabis Commission did not agree with recommendations from CHC and would like to add an agenda item to the next Cannabis Commission meeting to write a memo to Council addressing reasoning behind opposition.

Motion/second to agree with the 7-11-19 staff recommendations with the following exceptions:

1. No quota for D-oRs (23C.25.010.C.1);
2. No restrictions on depictions of cannabis on signs, including logos (20.40.110);
3. Remove restriction on changing locations (23C.25.130);
4. Allow D-oRs in C districts (except C-N) with a ZC (23C.25.010.3, Alternative A);
5. Allow Lounges with Storefront Retailers with a Use Permit "or as otherwise permitted under state law" (23C.25.010.D);
6. Maintain the current buffers for Storefront Retailers (23C.25.010.C.3, Alternative A); and
7. Expand Cultivation into the MM and MU-LI and strike the prohibition on outdoor commercial cultivation (23.25.020) (Poindexter/Lardner). The motion carried 5-0-0-2. (Ayes: Cooper, Cable, Poindexter, An, Lardner. Noes: None. Abstain: None. Absent: Svec-Burdick, Malmuth.)

B. Review Draft Cannabis Equity Program

Staff provided a brief overview of the process taken to help develop an Equity Cannabis Program. Staff spoke to experts both inside and outside of the cannabis

field and staff developed some actions for consideration. Information provided at this meeting is a revised version that incorporates comments and suggestions heard at the special meeting on June 13, 2019.

The following were presented as the building blocks considered when developing the Cannabis Equity Program:

- What are the characteristics for the Equity candidate?
- What are some of the barriers to entering the business?
- How should the City provide assistance?

Staff recommended a lottery system as opposed to a merit-based system to make it an equal process, which will create a more streamlined selection process. Additionally, throughout the process of formulating a recommendation, staff heard concern that candidates for the program might be poorly equipped to be successful or be taken advantage of as a partner. Therefore, a merit-based process is folded into the lottery process and candidates are required to provide ownership and business plan criteria to be entered into the lottery.

Public Comment:

Four comments. Commenters suggested considering a co-op solution so that we can have an equity ownership as opposed to having one golden ticket, and allow the program to help more than one person. Workforce training would provide opportunities for more people to benefit, and could be funded by cannabis industry taxes. The public also expressed unhappiness that public comment was not taken with each topic of the previous item.

Commission Discussion:

The commission generally agreed that one benefactor of the equity program doesn't feel like enough and suggestions made during public comment were further discussed as potential options to expand the impact of the Cannabis Equity Program.

The potential to add workforce training as a component of the Program was discussed. Furthermore, it was suggested that the City consider looking into helping equity candidates get exposure and experience in the cannabis industry, by either subsidizing or paying for the first month salary as part of workforce training. Commission members also supported encouraging Collectives as a way to increase the number of people who benefit from the Program.

The recommended requirements for an equity candidate were presented and the following was discussed.

The commission agreed that the equity candidate needs to be a member of the Berkeley community between 1971 and present.

It was requested that staff change the date range listed for "Cannabis Conviction" that qualify from "1971 to 2016" to "1971 to present."

The commission agreed with the proposed "Low Income" qualification.

Member of an Impacted Family – The commission requested adding spouses and

registered domestic partners as people who qualify as a family members affected by the “war on drugs.”

Resident of an economically disadvantaged census tract – the commission agreed to utilize the modified redlining map.

Overall, the commission would like to encourage staff to move the ordinance language forward and share it with the City Council and request to hold the Cannabis Equity Program for further discussion.

Motion/second to recommend forwarding ordinance language to Council prior to a Commission recommendation on the Cannabis Equity Program (Poindexter/Lardner). The motion carried 5-0-0-2. (Ayes: Cooper, Cable, Poindexter, An, Lardner. Noes: None. Abstain: None. Absent: Svec-Burdick, Malmuth.)

X. Adjournment

Adjourned at 4:15 PM.

One late items was distributed at the meeting.

Commissioners in attendance: 5 of 7

Members of the public in attendance: Approximately 10

Public comments: 11

Length of meeting: 2 hour and 15 minutes.

APPROVED: _____

Elizabeth Greene

Cannabis Commission Secretary



