



Committee on City Services and the Northampton City Council

Committee Members:

Chair: Councilor Maureen T. Carney

Vice-Chair: Councilor Marianne L. LaBarge

Councilor Dennis P. Bidwell

Councilor James Nash

Meeting Minutes

Date: March 5, 2018, 4 p.m.

Location: City Council Chambers

212 Main St., Northampton, Massachusetts

Present: Councilor Marianne L. LaBarge, Acting Chair
Councilor Dennis P. Bidwell
Councilor James Nash

Absent: Councilor Maureen T. Carney, Chair

Also present: Police Chief Jody Kasper, Director of Public Health Merridith O'Leary

1. **MEETING CALLED TO ORDER AND ROLL CALL**

At 4 p.m., Councilor LaBarge called the meeting to order. On a roll call, Councilors LaBarge, Bidwell and Nash were present. Councilor Carney was excused.

2. **PUBLIC COMMENT**

Since no members of the public were present, there was no public comment.

3. **APPROVAL OF MINUTES**

Councilor Bidwell moved to approve the minutes of February 5, 2018. Councilor Nash seconded. The motion carried 3:0 (Carney absent).

4. **DISCUSSION WITH BOARD OF HEALTH AND POLICE DEPARTMENT ABOUT EXPANDED OPERATIONAL/ADMINISTRATIVE RESPONSIBILITIES IN CONJUNCTION WITH RETAIL MARIJUANA SALES**

Councilor LaBarge recognized Director of Public Health Merridith O'Leary and Police Chief Jody Kasper.

Councilor Nash prefaced the discussion by explaining that he invited the heads of the police and health departments to inform councilors of what additional inspection and enforcement responsibilities they anticipate as a result of the pending opening of retail marijuana establishments in Northampton. Most of the focus of discussion to date has been on zoning and the size of buffers, etc., as opposed to administrative/operational issues related to the new industry, he pointed out.

Public Health Concerns

Ms. O'Leary handed out a document entitled, "Public Health Implications of the Legalization of Recreational Marijuana." She noted that it takes all levels of government to make sure effective public health strategies are in place to mitigate the effects of retail marijuana. She proceeded to review a list of public health concerns that arise with the onset of legalization, adding explanatory comments as necessary. Public health concerns include:

- Risk of toxicity
- Unintended exposure to children.
- High mortality and morbidity attributable to cannabis, including motor vehicle accidents, lung cancer and substance use disorders
- Negative mental health outcomes
- Respiratory health impacts
- Impaired child and youth development

Ms. O'Leary expressed her understanding that members heard presentations from the Northampton Prevention Coalition (NPC) and SPIFFY and heard about developing brains. Our brains are not fully developed until age 24 so limiting access to youth is hugely important, she stressed.

Also, an increased number of establishments results in the normalization of youth marijuana use, and when the perception of harm goes down, use increases, she suggested. Over the years, health officials have increased the perception of harm of tobacco use and have seen youth tobacco use go down, she pointed out.

Ms O'Leary reviewed some strategies for protecting youth from negative impacts, including limiting the number of establishments. People don't have to be 21 to go into a mixed use establishment, she noted. She is suggesting to the council that the city have an ordinance in place that says people have to be 21 or older to go into an establishment that sells marijuana. She would like to see establishments only sell marijuana and not have mixed-use establishments at all, she added.

With respect to unintended exposure, children six and under are at risk of unintended exposures to edibles, i.e. a marijuana-infused product, she admonished. Legislators have done a nice job in saying edibles have to be individually wrapped and that, if not individually wrapped, they have to be clearly marked. Also, if not packaged by the dose, edibles have to be clearly demarked with information about potency and nutritional content, she indicated.

In Colorado, statistics from poison control centers and emergency departments on accidental ingestion by children five years and younger indicate that, when medical marijuana was legalized, incident rates went up to 135%. When recreational marijuana became legal, incidents of accidental exposure increased to 225% for edibles, she reported.

One of the strategies she has been thinking about is having exit packages to be given to consumers at the point of sale, she continued. Once opened, a product cannot be secured again in its regular packaging but the retailer must provide alternative packaging to secure the product. She is asking that the host agreement include a provision that every retail establishment provide exit

packages, she advised. New England Treatment Access (NETA) has exit packaging, she confirmed.

NETA invested a lot of time and research in doing it right, Ms. O'Leary asserted. She expressed the opinion that this will carry through to recreational sales and that NETA could serve as a model for other establishments. City officials should hold recreational establishments to the same standards they held NETA to, she opined.

Councilor Bidwell pointed out that state regulations spell out packaging requirements so he wasn't sure local ordinances could address this requirement, but Ms. O'Leary confirmed that there will be room in the host agreement to state expectations of establishments as far as packaging. Or, these requirements could be contained in public health regulations, she suggested.

Councilor LaBarge questioned how the health department would be able to handle additional enforcement responsibility when there is a problem now with staffing.

The state is saying there won't need to be local enforcement from health departments; that they are going to inspect places that sell marijuana in whole form and edibles, Ms. O'Leary responded. They are taking the onus off public health. She doesn't know if it will be enough, she confided. State inspectors inspect beauty salons, but if they receive one inspection per year, it is a lot.

Just because we don't have to, we should entertain the question, should we, she added. The health department inspects all food establishments so it is reasonable to ask if they should do the same for marijuana, she indicated.

With regard to passive exposure, exposure to second-hand marijuana smoke should be looked at the same as second-hand tobacco smoke, she suggested. There is not a lot of research in terms of second-hand marijuana smoke and the developing brain because it's all too new.

Health officials should be thinking about some type of prohibition in multi-family housing, she continued. She expressed her understanding that marijuana consumption will not be allowed in public housing complexes. The Northampton Housing Authority complexes are smoke-free now but this prohibition is not enforced, Ms. O'Leary pointed out.

A policy or regulation is only as good as the enforcement, she commented. We owe it to our children to think about multi-family housing, she suggested.

Northampton has public health regulations, Ms. O'Leary confirmed in response to a question. She and Board of Health (BOH) members have entertained discussions in the past of having a smoke-free buffer zone around businesses of 20 feet or of creating smoke free business areas.

The Health Department gets numerous complaints of nuisance smoke from patrons and business owners, she disclosed. Smoke coming in through a window is an infraction of the state smoke-free workplace law and local health regulations.

BOH members recently amended the tobacco regulations to redefine smoking to include any combustible material and not just tobacco products. The term includes e-cigarettes, vaping, etc. Wherever smoking is prohibited now, marijuana smoking will also be prohibited, she confirmed.

Health officials want to make sure they are providing education to youth, so embedding key evidence-based messaging about risky use is going to be essential. One of the things she's looked at in the past with opioid education is life skills training; providing this training to teachers so it can be embedded into their curriculum. This will hopefully deter initial use of any substance.

Funding educational campaigns is essential to provide youth with ongoing, reliable information on the risks and harm of cannabis abuse. Having a campaign to prevent marijuana-impaired driving is also key. She mentioned her three daughters and the fact that they are not clear that drugged driving is the same as drunk driving.

OVERALL PUBLIC HEALTH

She expects her biggest impact to be on communication and education, O'Leary noted.

A popular alternative delivery method of marijuana is eating it, O'Leary continued. Edibles pose a very unique risk or concern that isn't present in other forms. Users don't usually feel the effect of an edible until 45 minutes or three hours after eating it. The failure of adult users to appreciate the delayed effect is partly responsible for marijuana intoxication. Some of the symptoms of accidental intoxication are paranoia, psychotic thoughts, increased heart rate and panic attacks. There is a documented case of a teenager who died because of intoxication from an edible.

Looking at emergency room visits, there has been a 17% increase in health care visits for adults because of marijuana edibles in states that have legalized marijuana. Smoking goes through the circulatory system so it gets to the brain faster. With edibles, because the product is metabolized, the THC takes longer to get through the system.

Besides youth, edibles are her #1 concern, O'Leary volunteered. One of the areas she thinks public health officials can have the greatest impact is public health messaging around edibles. She is going to recommend to the Mayor having some kind of messaging around edibles at every point of sale such as "Start slow; go slow;" "Start with one Serving, etc." She thinks they owe it to the consumer to have very clear, concise messaging around edibles.

Other places she would like to see great communication is around health education. There is strong evidence that suggests that cannabis and tobacco smoke are equally carcinogenic. Having health education at every point of sale is going to benefit the consumer. Northampton is going to be a destination area for people coming to buy marijuana from out of state. People need to know local laws and state laws. Providing this information at every point of sale is going to be huge.

Health officials also want to make sure they are providing information about accessing support services for marijuana as they do for opioids and cigarettes at point of sale.

The last part of education is around safe storage, Ms. O'Leary concluded. Health officials want to make sure that, as with prescription drugs, marijuana is put away in a safe area where it is not easily accessed.

In terms of overall health and safety, health officials want to make sure sales associates and customer service representatives are properly trained and educated. Also, not included in draft regulations were mobile sales of marijuana. Prohibiting mobile sales of marijuana should probably come from the city council as an ordinance. We don't want to see 'Ding Dong' carts selling marijuana at the Three County Fair, she asserted. Health officials require that tobacco dealers have permanent, brick and mortar structures to become tobacco sellers, and she thinks the same should be required for retailers of marijuana.

The city already has an ordinance on mobile vending so it could be an amendment of this regulation, O'Leary suggested. Colorado actually has mobile trucks, she confirmed.

In a nutshell, "we really need to invest in our future," Ms. O'Leary concluded. If she was going to ask for two things, it would be investing in education; not just in silos like for opioid and tobacco, and investing in local compliance and enforcement through sustainable prevention employees. Now all positions are grant funded.

Police Department

It is nice that Massachusetts has examples of states where marijuana is already legal, Chief Kasper observed. What is very clear from looking at Colorado data is that there are things that go up. Youth use goes up. Youth use in Colorado is #1 in the country. Colorado has had an increase in traffic accidents and fatalities.

The Northampton Police Department has won awards from Mothers against Drunk Driving (MADD) for the last two years because they are so good at impaired driver enforcement, she related. Northampton hasn't had as many serious accidents because they are so good at this activity. When Northampton got medical marijuana, the department trained three staff who are drug recognition experts. Recognizing impaired marijuana use is tricky.

If a person is stopped on suspicion of drug use, officers give them a field sobriety test. If impairment is shown, the officer will make an arrest. If individuals are arrested for alcohol impairment, they have to take a breathalyzer test. There is a law that says if the person blows over .08, they are impaired. With marijuana, there is nothing compelling a person to take a test. If a subject does not take a breathalyzer test, they can lose their license. A subject can refuse a test for marijuana impairment with no penalty. With alcohol, there is a bright line of .08 while, for marijuana, a bright line does not exist.

A subject will be arrested on the street if he or she fails a field sobriety test. But with marijuana, no additional evidence can be obtained, she clarified.

Councilor LaBarge wondered aloud how legislators could allow marijuana use with no standards in place.

That is the struggle a lot of them are facing, Chief Kasper acknowledged. She said she didn't know what to tell her. There is a major loophole with impaired operation, she acknowledged.

In 2015, 2% of Operating under the Influence (OUI) arrests were for impairment with drugs, in 2016 - 4% and in 2017 - 7.5%. They are seeing a gentle, gradual increase, she reported.

If they smell alcohol, officers are more likely to identify it as an alcohol arrest. However, law enforcement agents are seeing combinations of substances, including prescription medications.

With regard to on-site consumption, police are not prepared to deal with on-site consumption of marijuana, Chief Kasper maintained. Law enforcement agencies have systems in place to deal with people leaving establishments impaired by alcohol but do not have similar systems for marijuana impairment. They do have three drug recognition experts trained to observe indicators such as pupil dilation, etc.

On site consumption would be an area of concern for her, Chief Kasper stressed. Public consumption would be another area of concern. She is not going to propose an ordinance but is posing it as a question for discussion.

Now, Northampton has a local ordinance prohibiting open containers of alcohol. If someone is drinking a beer on Main Street, it is an arrest-able offense. Councilors could add marijuana to that, she proposed. Adding a prohibition against marijuana to the existing ordinance would make public consumption an arrest able offense, she advised.

It's up to the city to decide how to handle enforcement, she stressed. Police would be the enforcement arm if the city council added a prohibition against publicly consuming marijuana to the open container ordinance. The other option would be to put a monetary fine on the infraction, in which case, violators could be ticketed.

Ms O'Leary described her experience in another community with a nuisance control by-law – she created a revolving fund and money that came in from tickets helped subsidize a nuisance control officer, she advised.

She might have a concern about an enforcement officer, Chief Kasper acknowledged. There is a bit of a risk for someone approaching people smoking marijuana without protective equipment, she noted.

Chief Kasper reiterated her primary concerns as being youth use, accidents and fatalities, an increase in Emergency Room visits and [pressure on] rehab facilities - admittances have gone up for marijuana addiction, she pointed out. She is hoping they are not going to have a log jam of people seeking treatment due to this change, she volunteered.

There has also been an increase in crime around marijuana use in other states, she confirmed.

Police have seen medical marijuana being sold illegally in the high school, Chief Kasper reported. "This will not get rid of the illegal market of marijuana; it will just change it," she suggested.

Her overall message is that she just hopes they proceed with caution as they watch this come into the community. She is worried about traffic safety, etc.

Ms. O'Leary advocated for imposing a cap on the number of retail establishments. She hears people say that the free market will take care of capping, but are they willing to put their money on

it? she wondered aloud. Northampton could have 30 applicants as of April 1st submitting applications to the Cannabis Control Commission (CCC). If they have no cap in place, they could have 30 establishments downtown.

Ms. O’Leary expressed her understanding that the CCC needs to have siting and capping requirements for a community by April 1st. Northampton will have host agreements, but it cannot limit the number in a host agreement.

The draft regulation says, at a minimum, cities and towns have to allow 20% of the number of retail alcohol establishments. Northampton has 17 retail alcohol establishments, so it could have a cap of 3.4, she estimated.

Councilor Bidwell asked what her recommendation would be.

“I think you should have a cap and it should be 3.4,” Ms. O’Leary responded.

“We’re not ready. Why open the floodgates when we’re not ready. Start low,” Chief Kasper agreed.

Councilor Nash said he would be interested in knowing what cities and towns have imposed a cap.

Denver did it on the basis of one retailer for 2,152 residents, Councilor Bidwell related. Portland did it on the basis of one retailer per 4,475. There is a research statistic that says the optimal density level is one for 7,500, he shared.

Councilor Nash said he brought up the idea of a moratorium to the Mayor and he was under the impression that it couldn’t be done because of the margin of victory of the original vote to allow recreational marijuana.

Members agreed that it would be great to have some legal advice. The lawyer from NETA would be a great resource, Ms. O’Leary suggested.

Councilors thanked the department heads for their presentations.

5. ITEMS REFERRED TO COMMITTEE

A. 18.025 Appointments to Housing Partnership, License Commission and Trust Fund Committee - referred to City Services on February 1, 2018

Housing Partnership

Julio Alves, 35 Fort Hill Terrace, Northampton

Term: January 2018-June 2021

(Replacing expired term of Patty McGill)

License Commission

Helen J Kahn, 188 Federal Street, Florence

Term; January 2018-June 2021

(Replacing term of Elaine Reall)

Trust Fund Committee

Gerald Budgar

Term: November 2017-June 2021
(Reappointment)

Councilor LaBarge said she talked to Julio Alves and he sent an e-mail. Mr. Alves would like to be on the Housing Partnership because he found through personal experience that it is very difficult to buy a house in Northampton. He was able to buy a house on Fort Street, but he was worried about the experience of his two sons. He has two adult sons with disabilities that now live at McDonald House. While they were waiting for public housing, they couldn't find any housing that was willing to rent to them. He found it a little alarming how difficult it was to get housing for his sons. To meet the needs of a diverse population, the city needs a variety of housing options throughout the city. He would like to see more streets like his in Northampton. He believes city officials need to make Northampton a welcoming city to a more racially and ethnically diverse population, but that is not going to happen without more affordable housing options. He is not claiming to be a housing expert or well-informed but wants to learn more about pending projects and be involved in planning for the future. Councilor LaBarge read aloud a letter from Mr. Alves.

Councilor LaBarge stated that she is making a positive recommendation. Councilor Bidwell seconded. The motion passed unanimously 3:0.

Helen Kahn, a candidate for the License Commission, is one of the former owners of the Cup and Top Restaurant in Florence and therefore has had some exposure to the work of the license board, Councilor Bidwell shared. She was approached to serve and would look forward to doing so. There are a variety of issues coming before the board; for example, it is conceivable that air BNB issues may come before that board.

He thinks she would be a tremendous addition and would like to make a positive recommendation, Councilor Bidwell concluded. Councilor Nash seconded, and the motion passed unanimously 3:0.

Councilor Nash confirmed that he spoke with Gerry Budgar, a candidate for reappointment to the Trust Fund Committee. Mr. Budgar has been on the Trust Fund since the tenure of previous City Treasurer George Zimmerman. The trust fund manages some of the city's investments. He shared that things were not well organized when he first joined the committee and that he worked with Mr. Zimmerman and others to straighten things out. Members were able to divest the city of tobacco and another investment. He understands the work that is done on the trust fund and is enthusiastic about continuing to do it, so he sees no reason not to forward him with a positive recommendation.

Councilor Nash moved to forward the appointment of Gerald Budgar with a positive recommendation. Councilor Bidwell seconded. The motion passed unanimously 3:0.

Upon motion made and seconded, the meeting was adjourned at 5:10 p.m.

RESPECTFULLY SUBMITTED,

LAURA KRUTZLER, ADMINISTRATIVE ASSISTANT