

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

June 6, 2019

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 4:00 p.m. in the City Council Executive Conference Room on the 6<sup>th</sup> day of June, 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT:	Councilmembers Holman and Chairman Clark
ABSENT:	Councilmembers Carter, Castleberry, Hickman
OTHER STAFF PRESENT:	Mayor Miller Councilmember Scott Councilmember Wilson Ms. Amber Armstrong, Plans Examiner Mr. Bob Christian, Permit Manager Mr. Anthony Francisco, Finance Director Mr. Terry Floyd, Development Coordinator Ms. Ronda Guerrero, Municipal Court Clerk Ms. Brenda Hall, City Clerk Ms. Jane Hudson, Interim Director of Planning and Community Development Ms. Sara Kaplan, Retail Marketing Coordinator Mr. Travis King, Fire Chief Mr. Angelo Lombardo, Transportation Traffic Engineer Mr. Jack McMahan, ADA Technician Ms. Beth Muckala, Assistant City Attorney Mr. Anthony Purinton, Legal Intern Lieutenant Jeff Robertson, Police Department Ms. Mary Rupp, Interim City Manager Ms. Jeanne Snider, Assistant City Attorney Ms. Kathryn Walker, Interim City Attorney Mr. Jonathan Wilks, Fire Inspector Ms. Syndi Runyon, Administrative Tech IV Ms. Rendy Martin, Administrative Tech III

Item 1, being:

### DISCUSSION REGARDING UPDATES TO THE MEDICAL MARIJUANA ORDINANCE AS A RESULT OF CHANGES IN STATE LAW.

Ms. Beth Muckala, Assistant City Attorney, said the City Council passed an ordinance in January regulating medical marijuana. She said the current procedures include business licenses for growers, processors and dispensaries at a cost of \$100/year per license. The State License must be issued first. There is also a researcher's license, but Oklahoma Medical Marijuana Authority (OMMA) has not developed the process for it yet. The current zoning includes categories for permitted uses and special uses. The State requires a 1,000-foot setback for a dispensary. Home growth and possession is addressed by State law. Medical marijuana businesses are not allowed as a home occupation. Processes, equipment, chemicals and substances on site are largely an issue of building/occupation codes. She provided a recap of the zoning chart for special uses vs. permitted uses.

Item 1, continued:

Dispensaries are allowed by right in the Center City Form Based Code area as a commercial use, but a Center City Planned Unit Development (CCPUD) would be needed for a processor, grower or researcher.

Councilmember Holman asked if the CCPUD is needed for businesses moving in to an existing building or was it just for new construction. Ms. Jane Hudson, Interim Director of Planning and Community Development, said it would apply to both existing and new construction.

Ms. Muckala said State laws that are currently in place established licenses/fees and impose a 7% tax. OMMA was created and the Department of Health passed a set of emergency rules and OMMA implements the rules addressing the licensing procedure. Medical marijuana is subject to the same smoking/vaping restrictions in public places as tobacco products. OMMA also established inventory standards and general security requirements. Food and handling rules were also adopted for processors.

Councilmember Wilson said she has received complaints focusing on the music festival. She asked how Staff planned to educate people about the law. Ms. Brenda Hall, City Clerk, said one of the Norman Music Festival's sponsors held clinics in tents for patrons to possibly obtain a prescription for a medical marijuana card. Staff was concerned it would give people the wrong impression that they could walk around smoking marijuana. It is all about education but also with 30,000 people, it is going to be hard to regulate. Councilmember Holman indicated it was a bit more noticeable this year and said it was his understanding that where smoking is prohibited currently, marijuana would also be prohibited. He asked if the reverse was true in that you could smoke marijuana where tobacco smoking was allowed, i.e., a bar. Ms. Muckala said she could not speak definitively on that because that has not been the focus of the statutes she has been reviewing, but she would follow-up on it.

Ms. Muckala said the Staff report outlines several Legislative Bills; however, there are two main Bills for today's discussion. She said House Bill 2612 known as the Unity Bill, added new statutory definitions/terms "Medical Marijuana Business (MMB)" and established new license categories, i.e., Transporter Agent and Testing Laboratory. Educational and Research facilities will require a license, but will not be considered an MMB. Senate Bill 1030 provided a direct acknowledgement of a municipality's zoning power and created a Certificate of Compliance process, which appears to be similar to the process for licensing liquor establishments by the Alcoholic Beverage Laws Enforcement (ABLE) Commission. It was put in place to insure cooperation and information is exchanged between local authorities and the state.

Since the memo was written, Ms. Muckala said she had spoken to the Oklahoma Tax Commission (OTC) and was able to clarify that administrative procedures are in place for businesses to remit sales tax on marijuana sales to OTC; however, there is not an item code that would easily identify what percent is attributive to marijuana sales vs. other tangible sales. There is a current case pending in Oklahoma County about sales tax remittance, which has been stagnant since January of this year. Whenever Senate Bill 1030 was first addressed by the legislature it included language that was aimed to clarify that issue. She believed what the Legislature was trying to do was to create an exemption for medical marijuana so that it would not be subject to the entire sales tax; while writing in a specific allowance for county and municipalities to tax medical marijuana directly. It became confusing and there was some concern at the Legislature that it actually reduced the overall excise tax. That language was dropped from Senate Bill 1030 and it was passed so Staff has to rely on the OTC process currently in place, which means they will be collecting and remitting to the City unless this pending case tells them to do otherwise. Chairman Clark stated the City is receiving sales tax, but is unable to tell how much is directly coming from medical marijuana.

Item 1, continued:

Councilmember Wilson asked if Staff has seen an increase in revenues in the last six months since businesses began.

Chairman Clark asked if we are insuring that all of the 51-54 dispensaries in Norman are collecting sales tax. Ms. Hall said that is one of the challenges as Staff has not been able to get them all licensed to date.

Councilmember Holman said it is hard to tell how many dispensaries there actually are because the number of State licenses issued does not mean they are all open. He said there are two apps, “Leafly” and “Weedmaps” that shows where they all are. According to Leafly, there are 19 currently operating in Norman. He said he did not think there were 50 in Norman open and operational, but there may have been that many licenses issued.

Councilmember Wilson ask what is needed to get the businesses licensed. Ms. Hall said Staff has been discussing in detail the licensing process for the past two weeks. Staff is able to get a list of addresses for dispensaries from the OMMA website, but addresses are not available for processors and growers on the website. Staff mailed letters to all of the dispensaries licensed through OMMA and many of the letters came back. She believed Councilmember Holman is correct and many are not open yet. She said Staff is also working with Code Compliance who are contacting establishments as they drive by if they are not on the list of licensed establishments.

Ms. Muckala said there is a snapshot of the number of state and local licenses at the beginning of the staff report, which highlights the need for the Certificate of Compliance (COC) process developed in Senate Bill 1030. She said the statute states any marijuana licensed premises where marijuana will be cultivated, grown, processed, stored or manufactured must submit a COC with its application. The COC process must certify compliance with zoning classifications, applicable municipal ordinances and all applicable safety, electrical, fire, plumbing, waste, construction and building code specifications.

Ms. Muckala highlighted the rules relative to Medical Marijuana Transporter Agent/Storage Facilities. She said when Senate Bill SB 788 passed, the first statute addressed transportation. If a person had a marijuana business or a license they were automatically able to transport marijuana and that is still the case. There is now a new kind of sublicense called a Transporter Agent, which allows a person to contract with businesses to transport product for them. The Transporter Agent has a lower license fee and is limited on how many businesses they can work with. A Transporter Agent is permitted to have a premises for storage of product they are transporting. It creates the need for a category to accommodate storage facilities for zoning purposes. She said since the City is required to issue Certificates of Compliance for standalone facilities storing marijuana, Council might want to consider establishing a licensing category for the storage facility. In addition to that, there is also the possibility of an already licensed business as a processor that wants storage for its product off site.

Councilmember Wilson asked if other pharmaceutical/medical businesses had to have a separate license for storage for their product. Ms. Muckala said she did not believe so on a City level. She believed the difference at the state level is the security required for access to medical marijuana.

Ms. Muckala said medical marijuana research facility is already in place in the City’s Zoning, but Council will need to address testing laboratories, educational facilities and storage facilities for consistency purposes.

Item 1, continued:

Councilmember Wilson asked if a medical marijuana establishment did multiple things, would they have one general license that covered everything. Ms. Muckala said neither the state or the City has a general business license and the license categories the City is trying to establish mimic the state categories. She said right now in Norman, they would need to get separate licenses for each operation just as they do at the state level.

Chairman Clark said she would support educational facilities in A-1, General Agricultural District, and A-2, Rural Agricultural District, since that is where growing takes place.

Councilmember Wilson indicated she would support this, but is concerned about the buildings that may come with a grower and educational facility. She said she did not want to create a building code issue and was concerned that the size of the facilities would create a lot of impervious surface in the agricultural districts.

Ms. Muckala said the new state law for Certificates of Compliance will be effective August 21, 2019; therefore, Staff can set the City's timeline to be ready for implementation as close to that date as possible.

Councilmember Wilson ask if the dollar amount could be quantified to show what it is costing the City to administer these licenses. Ms. Brenda Hall, City Clerk, said Staff could probably make an educated guess on the number of hours that the Fire Marshall's office, Building Code, Code Compliance, and her staff had spent with the medical marijuana licensing and compliance process. She said there is a lot more to it than Staff had anticipated, even with the Certificate of Compliance, there will be multiple departments that will be going out making onsite inspections.

Chairman Clark ask how easily is it to adjust that \$100 fee. Ms. Hall replied it would be handled through an ordinance amendment. She said the City wants to be business friendly, but also needs to be mindful of the staff time involved in the process.

Items submitted for the record

1. Memorandum dated June 6, 2019, through Kathryn L. Walker, Interim City Attorney, by Beth Muckala, Assistant City Attorney, to Oversight Committee
2. Oklahoma City Fire Department, Fire Marshal's Office AHJ Policies and Guidelines for Plant Extracting, Processing, and/or testing Operations
3. Oklahoma City Fire Department, Fire Marshal's Office AHJ Policies and Guidelines for Carbon Dioxide Enrichment Systems
4. Title 310. Oklahoma State Department of Health, Chapter 681, Medical Marijuana Control Program
5. PowerPoint presentation entitled, "Medical Marijuana Zoning/Licensing Updates," dated June 6, 2019

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Item 2, being

**DISCUSSION REGARDING AMENDING THE HANDICAP PARKING FINES TO COMPLY WITH CURRENT STATE LAW.**

Ms. Jeanne Snider, Assistant City Attorney, said her presentation is regarding increasing the handicap parking fine for parking in a handicap spot without a placard or approved license. She said currently under City ordinance a driver who parks a vehicle illegally in a handicapped space faces a \$100 fine, which increases to \$150 if not paid within five days. Staff was asked to review the Handicap Parking Ordinance and consider raising the fine to \$500, which is the maximum allowed under state law. She said under State Statute fines collected shall be distributed 80% to the General Fund of the municipality and 20% to a dedicated fund established by the Department of Public Safety for the development, implementation and maintenance of a system for the enforcement of the disability parking provisions.

Lieutenant Jeff Robertson, Police Department, said Staff now has access to handicap placard information through Oklahoma Law Enforcement Telecommunications System (OLETS). Dispatchers or officers who are logged into OLETS can input the placard number and get the owner information. Chairman Clark asked for more information about OLETS; what it is and what it does. Lt. Robertson said OLETS is the national computer database that police officers check people for warrants and it is also used to run tags. He said placards are issued to a person not a vehicle.

Ms. Snider said currently the City's ordinance says you are not allowed to park, stop or stand a vehicle in a parking space designated and signed for handicapped drivers, whether on public or private property, unless the vehicle to be parked displays a handicapped parking permit issued by the State of Oklahoma to the driver or a passenger present during the use of a permit or the state of residence of such a person. She said what is being proposed will closely mirror state law which goes a little further. In this proposal a person, whether they are physically disabled or not, would not be able to park in those spaces that have an access aisle or wheelchair ramps. The vehicle would then be subject to immediately tow. Ms. Snider said she checked with other cities regarding their fines; Stillwater and Moore assess a \$500 fine, Enid assesses \$200 and Edmond assesses a fine in the range of \$150-\$250. She said the state statute uses the term disabled and the ordinance is written to mirror state law.

She said in 2017, 82 citations were paid with 70 paying \$100, 12 paying \$150, 17 were dismissed with cost, 20 were dismissed without cost, and 54 citations are still pending. Ms. Snider said parking citations can go through our collection agency, but they are not going to go to warrant, so there is always going to be pending citations. She said if a person has a pending citation on any parking violation, including handicap, and they come in to pay a speeding ticket, the parking ticket will have to be paid as well before the person leaves.

Ms. Snider said Council may want to consider signage in front of the handicap signage that indicates a \$500 fine. Chairman Clark said she fully supports the signage. She asked if there is a way to see where the tickets have been issued and start in the area where there are the most violators. Ms. Guerrero said Staff could run a list and get the statistics on the location the ticket was issued.

Ms. Snider explained the court process and said when a person comes to court and finds out it is a \$500 fine, some will pay some and some will say they do not have the money. The defendant could set a court date, but to set a court date you have to pay the \$30 court cost and the fine as a bond. She said Municipal Court has a process where they can contact the judge to see if the bond can be waived. When they come to court if they still do not have the money, then it goes through the regular process for time to pay. She said holding a hearing allows the judge to give them 30 days to pay.

Item 2, continued:

Councilmembers Bierman and Wilson said they both supports the proposal. Chairman Clark said that Councilmember Scott said she supported the fine before she left just now.

Mayor Miller said looks like everyone is on board with this one.

Mr. Angelo Lombardo, Transportation Traffic Engineer, highlighted proposed changes to the Traffic Code to update language regarding parking meters vs. pay stations and clarifying language/signage regarding disabled parking.

Councilmember Wilson said she had been contacted by Jeff Hughes with Progressive Independence asking how the additional revenue would be used and if it could be earmarked for education. She asked if the City's portion could be used for education or are the funds needed elsewhere. She said it could be a conversation for another day.

Items submitted for the record

1. Memorandum dated June 6, 2019, from Jeanne Snider, Assistant City Attorney, to City Council Oversight Committee
2. City of Norman Zoning Ordinance, Section 20-817, Parking in disabled parking space prohibited
3. City of Norman Zoning Ordinance, Section 20-202, City Manager authority
4. City of Norman Zoning Ordinance, Section 20-802, Parking in accordance with signs or markings
5. City of Norman Zoning Ordinance, Section 20-803, Parking meter/pay station usage
6. City of Norman Zoning Ordinance, Section 20-813, Separate Offenses.

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Item 3, being

CONTINUED DISCUSSION REGARDING A POSSIBLE FEE FOR SINGLE USE BAGS.

Chairman Clark said she is saddened and frustrated about all the time Staff and she had spent on drafting an ordinance regulating single use bags that would make Norman trailblazers for protecting the City's water supply, environment and our general health and safety issues to reach this point. Mr. Terry Floyd, Development Coordinator, provided copies of Senate Bill 1001, which prevents cities and other political subdivisions from prohibiting, taxing or regulating auxiliary containers such as single use bags. However, it does not prohibit a municipality from establishing a recycling program.

Councilmember Wilson asked if the City could fine companies for littering if bags with company logos end up on the city's trees and streams. Ms. Beth Muckala, Assistant City Attorney, indicated that this bill does not address that and the challenge would be finding the offender. The littering citation would be issued to the person that does the offense, not the store. Ms. Kathryn Walker, Interim City Attorney, said it would have to be an administrative fine.

Item 3, continued:

Chairman Clark pointed out that the legislature's generosity in allowing municipalities to have a recycling program is completely misplaced because no recycling company in Oklahoma takes plastic bags. She said she wanted it on the record that if the State wanted to be uniform on how businesses are addressed, they could have just banned bags statewide.

She said Norman will have to get creative in how we address this issue and partner with businesses and non-profit agencies.

Items submitted for the record

1. Memorandum dated May 30, 2019, from Terry Floyd, Development Coordinator, and Beth Muckala, Assistant City Attorney, to City Council Oversight Committee.
2. Senate Bill 1001 by James Leewright of the Senate and Dustin Roberts of the House

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ADJOURNMENT:

The meeting adjourned at 5:15 p.m.

ATTEST:

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City Clerk

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Mayor