



Legislative Committee Meeting 5-6-2019
Meeting
May 6, 2019

AGENDA

I. Call to Order

II. Approval of Meeting minutes

- a. Approval of April 29, 2019 Meeting Minutes

III. Legislative Update

- a. Review of Non-Funding Portland Education LD's
- b. Review of New LDs/Bill Tracker
- c. Staff Review/Testimony

IV. Meeting Schedule

- a. Next Meeting May 13, 2019 @ 8:00 AM in **Room 24, City Hall**

V. Public Comment

VI. Adjournment

**CITY OF PORTLAND
LEGISLATIVE COMMITTEE
April 29, 2019 MEETING MINUTES**

The April 29, 2019 Meeting was called to order by Committee Chair Ali at 8:09 a.m. in Room 209, Portland City Hall, Portland, Maine

A. Attendance/Introductions:

Committee Chair and City Councilor Pious Ali; City Councilor Jill Dusen; Mayor Ethan Strimling; Kate Knox, Bernstein Shur team by phone; Chris Feeney, Bernstein Shur team; Alysia Melnick, Bernstein Shur team; Xavier Botana, Superintendent of PPS; Board of Education member Laurie Davis; City Manager Jon Jennings; Mike Murray(Staff);

B. Approval of minutes:

April 22, 2019 minutes - motion by Mayor Strimling to amend 4-22-2019 minutes to reflect action on LD 369; second by Councilor Dusen; 3-0 approved.

C. Review of non-funding education bills by Committee and Portland Board of Education and PPS Staff;

D. Review of legislative bills bills/bill tracker:

- E.** LD 949 - HHS committee members may send letters of support to committee if they so desire;
LD 1084 – Staff is not supportive of LD 1084; Committee requests letter be submitted to Committee on Transportation opposing original LD as written;
LD 1618 - Remove
LD 1627 - Remove
LD 1647 – Place with similar LDs for further review
LD 1652 – staff review
LD 1662 – staff review

D. Next Meeting Date

May 6, 2019 @ 8:00 AM – Room 209 City Hall

E. Adjournment

Councilor Dusen moved to adjourn; second by Mayor Strimling; vote 3-0 and the meeting adjourned at 9:22 AM.



Memorandum

TO: Chair Ali and Members of the Legislative Committee
FROM: Michael Murray, Assistant to the City Manager
CC: Jon Jennings, City Manager
SUBJECT: Staff Updates on LD's
DATE: May 4, 2019

The following is a summary of staff comments on LD's that are under consideration by the Legislative Committee:

LD 402 – “An Act to Restore Overtime Protections for Maine Workers”. Committee has requested an impact analysis as to the effect City of Portland workforce; public hearing was held 3-11-2019; 3-20-2019 work session 5-1-2019;

LD 1222 – “An Act Regarding Electric Bicycles”. Staff input has been requested; staff has no issues with bill; public hearing scheduled 5-2-2019;

LD 1444 – “An Act To Make the Distance to Schools for Marijuana Establishments Consistent with the Liquor Laws”; no public hearing scheduled as of 4-19-2019; request staff review; staff indicates local ordinance has been reduced to 500 feet from the 1,000. The 300' change itself would not make that big of a difference, but the change in how the measurement takes place could be. Essentially, this will allow marijuana stores to locate right next to school property (playing fields, courtyards, etc), so long as the door to the school was at least 300' off the property line; no public hearing scheduled as of 5-4-2019;

LD 1652 – “An Act To Make Technical Changes to the Taxation of Marijuana”; Staff input requested; staff indicates that the technical changes do not impact the city; public hearing scheduled for 5-6-2019;

LD 1662 – “An Act To Save Lives by Establishing the Low Barrier Opioid Treatment Response Program”; staff input requested; public hearing 5-2-2019;



CITY OF PORTLAND

Pious Ali

City of Portland Legislative Committee – Chair

LD 1084 – An Act Regarding the Operation of Pedal-powered Tour Vehicles

Dear Senator Diamond, Representative McLean and members of the Committee on Transportation:

My name is Pious Ali, and I am the Chair of the Portland City Council Legislative Committee. The Portland Legislative Committee recently had the opportunity to review LD 1084, *An Act Regarding the Operation of Pedal-powered Tour Vehicles*.

The Portland Legislative Committee has serious concerns about LD 1084 in its original form. As originally written, LD 1084 pre-empts municipal bodies from regulating/restricting the operation of a pedal-powered tour vehicle operating on a public way within a municipality. This pre-emption does not take into account the individual ordinances, zoning, and character that defines each municipality.

Maine has a long tradition of home rule authority, and it has generally been accepted at the state level. Attempts to limit or preempt local authority are not taken lightly by municipalities, nor should they be. At the state level, attempts to rescind home rule authority have not passed the committee level.

As Chair of the City of Portland Legislative Committee, I represent my colleagues when I state that the City of Portland opposes LD 1084 in its original form, and ask that the Transportation Committee vote – *Ought Not to Pass*.

Thank you for your consideration.

Sincerely,

Pious Ali
Portland City Council Legislative Committee
Chair



CITY OF PORTLAND
Danielle P. West Chuhta
Corporation Counsel

Michael I. Goldman
Associate Counsel

Jennifer L. Thompson
Associate Counsel

Anne M. Torregrossa
Associate Counsel

LD 1129
An Act To Clarify Certain Provisions of the Maine Medical Use of
Marijuana Act

Testimony on Behalf of the City of Portland
by
Anne Torregrossa, Esq., Associate Corporation Counsel

The City of Portland's goal is to ensure that medical marijuana businesses become part of our community in an appropriate and harmonious way. The City has no intention of snuffing out responsible caregivers who opened their businesses in suitable locations. However, it does want to ensure that less responsible business owners cannot sneak through loopholes in the law and be allowed to continue operating in inappropriate locations where they adversely impact their neighbors.

To illustrate this distinction, Portland has numerous caregivers who run small operations that have no adverse impact on their neighbors. On the other hand, we also have caregivers who run much larger retail operations out of single-family homes in residential neighborhoods. Those caregivers are having a significant – and unfair – impact on their neighbors and the City will eventually have to take steps to shut those caregivers down. As a City, we would not allow an incompatible retail use of any other product in a residential neighborhood. The same is true for more industrial-type uses such as extraction, processing, and larger growing facilities that would only be allowed in business or industrial zones if they were extracting, processing, or growing anything other than marijuana. It would be unfair to have to treat marijuana uses differently because of a loophole in state statute.

It is in this context that the proposed changes are needed to give clarity to municipalities and businesses, to help close that loophole, and to avoid the otherwise inevitable litigation that will result if municipalities and businesses have to fight over the definition of retail store and what constitutes "municipal approval" under state statute. These two definitions are important because they work together they outline which businesses are "grandfathered" and which will have to comply with a municipality's new rules regulating marijuana operations.

Turning to the actual language of the proposals, with respect to the definition of "retail store", the City of Portland supports the definition proposed by Garrett Corbin of Maine Municipal Association that refers to the typical attributes of retail including advertising, sales to the public, etc.

389 Congress Street, Rm 211 • Portland, Maine 04101

www.portlandmaine.gov • 207-874-8480

As for the definition of “municipal approval,” we think it is important to only include those types of approvals where the underlying *use* is actually considered and approved. For example, an electrical permit is not really an approval of the underlying use – its an approval to install certain electrical wiring and equipment. Similarly, a building permit is not necessarily an approval of the underlying use – it is an approval to erect a shed or reconfigure walls or windows. On the other hand, site plan or conditional use permits examine and specifically approve of the underlying use and how that use fits into the neighborhood.

Drawing the distinction between routine permits and specific approvals of an underlying use is important because many municipalities believed that they were not allowed to regulate registered caregivers *at all* prior to July 1, 2018. This meant that if an electrical permit came through for a marijuana caregiver facility, the permit was granted. If a caregiver pulled a building permit for a new grow facility, the permit was granted. Where an HVAC permit was needed for an extraction facility, that too was granted. And all of those permits were granted regardless of whether the caregiver operation was in a location where that use would otherwise be permitted, or whether it met any other reasonable standards that a municipality might impose on a similar use. For this reason, these routine permits should not be construed to as any sort of “approval” of the underlying use because most municipalities felt that their hands were tied and they had to grant the permits as applied for.

The proposed changes would define two key terms and would help bring clarity for municipalities and businesses about the rights of those parties. They would also ensure that municipalities are not forced to allow marijuana businesses to continue in incompatible locations simply because they pulled a routine permit.