



**Health & Human Services and Public Safety Committee
&
Economic Development Committee**

Tuesday, January 7, 2020 5:30pm, Council Chambers, City Hall

Health & Human Services and Public Safety Committee Attendance:

Belinda Ray, Chair (District 1), Tae Chong (District 3), Pious Ali (At-Large)

Economic Development Committee Attendance:

Justin Costa, Chair (District 4), Spencer Thibodeau (District 2), Nicholas Mavodones (At-Large), Tae Chong (District 3).

Mayor Kate Snyder

City Staff: Heather Brown, Assistant City Manager; Jessica Hanscombe, Licensing and Housing Safety Manager; Anne Torregrossa, Associate Corporation Counsel; Jim Sweatt, Commander of the Portland Police Department; Mike Thompson, Fire Department Division Chief; Kristen Dow, Health and Human Services Director; Adam Harr, Social Services Executive Assistant; Greg Mitchell, Economic Development Director; Bridget Rauscher, Chronic Disease Prevention Program Coordinator; Chris Beaumont, Life Safety Plan Reviewer.

Meeting called to order at approximately 5:37 PM.

AGENDA ITEM 1 – Announcements and Approval of Minutes

Memo: <https://portlandme.civicclerk.com/Web/GenFile.aspx?ad=4194>

Councilor Mavodones moved to approve the minutes, Councilor Ali seconded and the minutes were approved unanimously.

AGENDA ITEM 2 – Marijuana Business Licensing

Councilor Costa, Chair of the Economic Development Committee explained the last meeting generated specific items covered in the staff memo at this meeting.

Corporation Council Anne Torregrossa explained points on the memo answer committee questions.

- Staff is recommending requiring marijuana manufacturing facilities be sprinkled which is not normally required under Chapter 10. A committee member asked if this is above and beyond what other jurisdictions require.
 - Sanford requires all marijuana uses be sprinkled.
 - Manufacturing will likely be the most hazardous marijuana use due to the flammable chemicals including butane used in manufacturing.
 - Bangor had an incident at a marijuana manufacturing facility that would have caused significant damage if it was not located in a former military facility.

- Ann asked if she should go through all of the items. Chair Ray said there were six remained areas that need to be figured out.
 - o Cap & Buffer
 - o Point System
 - o Safes (security)
 - o Transferability of Licenses
 - o Performance Guarantee
 - o Seating and Consumption
- School is relevant to the point matrix.
- Assets and line of credit is in line with capacity.
- SVA is under the point matrix.

Chair Ray handed out a point matrix and proposed going through the topics that have information and asked which info should be looked at first. Councilor Costa recommended going through the discrete questions in the memo.

- Definition of school; triggered by zoning: marijuana businesses must be 500 feet from schools:
 - o Max points is realistically 4 due to the possible max distance in an allowable zone.
- Liquid Asset Definition: one point for applicants who can show \$150,000 of liquid assets:
 - o Cash on hand is the easiest definition.
 - o Some businesses spoken to shared they will spend this in the first months of business.
- Lines of credit:
 - o Seaport Credit will finance this industry.
 - o Other groups nationally will fund this industry.
- Staff have proposed appoint for retail stores for socially and economically disadvantaged groups.
 - o This will be challenge
 - o Staff are looking at the SVA framework
 - Traditionally disadvantaged based on race as presumptively socially disadvantaged.
 - Must still document economically disadvantaged
 - There are other factors outside of presumptive groups.
 - o It will be cumbersome but doable.
- Transferability of business licenses.
 - o Currently would allow up to 10%.
 - o Not allowed for any other businesses.
 - o Recommending letting up to 25% be transferable.
 - o This is to combat a secondary market for retail licenses while complying with the intent of this regulation.

Safes

Memo: <https://portlandme.civicclerk.com/Web/GenFile.aspx?ad=4195>

- Commander Jim Sweatt met with businesses after the last meeting and looked at alternatives in the safe industry outside of Maine.
- In the West, the trend is toward more expensive safes for money counting and inventory control.

- These businesses are looking to have two months of product.
 - This would be \$250,000 worth of product.
- Version Control Program
 - Larger warehouses for medication.
 - Alternative to a built structure inside a store.
 - Most businesses already have a floor plan.
- Alternative recommendations:
 - 1st standard TL-15: more expensive but would secure product safely at night.
 - Looking at standards, what can officers do to inspect safety and security measures.
 - Limited access.
 - With this amount of product there is risk of diversion through employees and burglary.
 - 2nd standard would a 6ft by 8 ft. by 6 ft. box with a self-closing self-locking door during hours of operation.
 - Prevent theft from employees.
 - Theft of product takes a long time to investigate and would likely not be recovered.
 - There are products that we do not want diverted (vapes, dabs, etc.).
 - Private contractors have advocated for lower standards in the medical field but those examples do not include the volume of product onsite in this industry. This is an alternative that may be more or less expensive but will be adaptable and passable without too much control/inspection.
 - Keeping the cash safe will keep employees safe.
 - Limited employee access to product and cash.
 - Adopting the vault system is likely a next step for the Council to decide.
 - Can be modular.
 - Can be built into the space.
 - Cost could be up to \$30,000.
 - One time purchase.
 - This number would be small for some operations and larger for smaller.

Committee questions and discussion.

Ordinance: <https://portlandme.civicclerk.com/Web/GenFile.aspx?ad=4196>

- Cap as set in the ordinance is 20; this may be in rounds or all at once. (Chapter 35-42 i. on page 22)
- Buffer is 250 feet between retail businesses with exceptions for businesses with medical businesses now that would change to a retail.
 - Licenses holders can only hold one license for five years; after 5 years they could split and have both a retail and a medical space within 250 feet of each other.
 - This is only after 5 years.
- Councilor Mavodones asked if the meeting is to refine or vote on.
 - Chair Ray thinks it is to refine with staff bring back answers at a further meeting.

- Buffer is in Chapter 35 – 13.
- Char Ray asked for thoughts on the 20 cap and dispersal.
 - Councilor Mavodones asked for what the dispersal is on overlay licenses:
 - 100 ft. for crowds
 - This dispersal is for balance of proliferation, preventing every store front from being one kind of business.
 - Councilor Chong asked if there is a dispersal requirement for Liquor stores.
 - Nothing specific.
 - Councilor Thibodeau is fine with the cap as presented by staff and the dispersal.
 - He has concerns with going straight forward with 20; other communities expressed wishing they had started slower and this number could increase in the future.
 - Councilor Mavodones has become more comfortable with a cap and does not have a different number proposed. He tried to recall how many proposals South Portland had, and thought it was 14.
 - He is open to a higher number.
 - Chair Ray is open to a higher number to start.
 - The City manager can release in rounds and could stagger with smaller rounds at his discretion.
 - Prefers using the rounds to control proliferation verses needing to come back to raise the cap.
 - The way the ordinance is written, it is based on staff resources:
 - If the City Manager is able to grant 10 in three months, the remaining would need to be granted and there is not a mechanism to hold back.
 - Holding back would cause legal problems for the City.
 - Corporation Council recommends starting small and expects coming back to tweak it within a year.
 - Councilor Thibodeau asked if 20 is small, where we see this going in the future.
 - How long will it take to license 10 of these?
 - What is the final count? 40 or more? He expects we will know fairly quickly.
 - These will affect available space and rents; he would like those considerations to be included.
 - He supports recreational use.
 - Councilor Chong supports recreational use but reminded that it is a drug.
 - Bigger cities sustain stores but Portland is 67,000 people.
 - Do we want more retail jobs/stores in Portland when we already have 19 breweries?
 - He sees these in line with liquor stores.
 - He has concerns over a proliferation of marijuana stores for the public safety effect on unintended populations.
 - There are expensive costs for startup and a lot of unknowns; it is better to start of small.
 - Just because it is legal in Portland does not mean we need many stores.

- Other cities are revisiting.
- o Chair Costa is inclined to stick with the staff recommendations.
 - It is harder to scale back.
 - If way off, it is possible to revisit.
 - He does not want to see a situation where we need to reduce the number of licenses.
 - He is open to a higher cap but would probably stick with 20.
 - We will have more information in the next couple of months.
- o Mayor Snyder asked about the comparison to Seattle where it has twice the number of licenses and 11 times the population.
 - Anne compared jurisdictions in the last packet.
 - Portland is middle of the pack nationwide.
 - The town of Poland, ME has 10 and licenses 2.
 - Denver had no cap initially then retroactively imposed a cap; as stores closed, the licenses were not reallocated.
- o Chair Costa appreciates the information and acknowledges that these comparisons don't reflect their situations.
 - Anne said industry professionals think estimated we would land on 20.
- o Councilor Mavodones would be ok with higher cap but does not have a specific number
- Transferability of Licenses
 - o Proposal in memo would allow for 25% of a license be transferred.
 - o Councilor Thibodeau does not have strong feelings on percentages but asked about businesses moving to new locations.
 - These are considered a new license. This includes all businesses. Nothing has ever been allowed to move or change ownership.
 - He has a concern about a property right as the rents for this particular use is off the charts. He assumes some of these businesses may move around due to space.
 - o Chair Costa views this as one of the most important elements to work out and has heard the public comment on the particular difficulties unique to this industry.
 - He is concerned about the realities of this industry having more changing of ownership or equity structure.
 - He does not want to create a secondary market for licenses.
 - He is open to the alternative proposal but is not 100% comfortable with either side.
 - o Councilor Chong asked about an expensive restaurant in the Old Port: a new owner would have to apply for a new license at the State and local level. This would be the same if moving next door to a new address.
 - There would be new inspections and new liquor licenses and new investment if the space doesn't meet code.
 - This would be the same with marijuana.
 - o Chair Ray clarified this is not about new licenses but investment equity.

- We are not suggesting a change of licenses but shares or equity of ownership of a business.
 - With restaurants/liquor anything under 10% is allowable.
- o There is no cap on restaurants, the only license that is capped in the City is short term rentals.
- o Chair Costa asked about a preference for economic viability or local control?
 - Situations where people are still running their business but need more equity to come in to keep the businesses viable.
 - He does not want to create an incentive to run an undercapitalized business.
- o Chair Costa said by alternative we could be saying to applicants that everything needs to be done on the front end.
- o Councilor Mavodones agrees with Councilor Costa on balancing the tension between local interests and insuring businesses are viable.
- o Councilor Chong has been and is a business councilor. He sees multiple owners as a red flag. He understands trying to create equity but wants to ensure that the proposals accepted will be successful as much as possible.
 - Wouldn't you want the larger businesses to start and create the market for smaller operations? He used oysters and Eventide as an example as one larger restaurant creating a market and reputation for oysters for smaller ones to join.
 - It is a public safety issue; there will be a cost of business in this industry.
 - He is included to support businesses that would have fewer transfers.
- o Chair Ray supports the recommendations.
 - She wonders if 25% is enough.
 - She pointed out that Eventide has multiple owners: 3.
 - If you move, you need a new license.
 - She supports this recommendation and likes the requirement that new owners must pass the same background check and requirements.
 - These initial requirements must remain so a business that is 51% Maine owned.
 - She does not understand why we are concerned that businesses are going to be successful. If they fail, let them fail. Why do we want to treat this sector so differently? Breweries are not required to be successful and restaurants close and are opened regularly.
- o Councilor Mavodones understands this as different because it is new.
 - It is different from needing new licenses if people leave and come back.
 - He has a concern that we do what we can to have the highest level of success in the ordinance.
 - Objective points in the matrix.
 - People are putting their own houses and resourced up.
 - There are many factors including finance that are very different from other business that we license.
 - We should do what we can to ensure success.

- We should be mindful in the requirements that we are not deterring the success of business from our regulations.
- Councilor Thibodeau asked staff to come back with a percentage they think works; is ok with 10% and 25%.
 - He asked what would happen if two people have a license split 50/50, what happens if one dies.
 - They are allowed to run it for the remainder of the license; Until July 1st then, it must apply by herself or find a new partner.
- Chair Costa suggested a straw poll now or to table it and continue to the other points, while thinking about the local versus stable business perspective.
 - Councilor Chong is in favor of stable businesses. He understands that marijuana passed by a large margin but not everyone views it well. That's why it is important we have good marijuana business partners. It is controversial and is selling a drug; it should not be treated like restaurants.
 - Straw poll on 25%
 - 5 of 6 yes with Councilor Chong disagreeing.
 - Councilor Thibodeau asked if it is easy to change.
 - It is and Anne will red line this in the next version.
- Points in the Matrix.
 - Chair Ray created a matrix to start then categories in the current matrix as bonus points. There are core elements in the ordinance and the level of completeness and clarity should determine allocation. This is an example and not suggesting it be what is used in the final version.
 - Councilor Mavodones needs time to look through it and received comments from people on the points already made available, if there should be points for people who already have license from the state.
 - Should we be given preference to people who already have approval from the state:
 - Staff talked with the State; the State does not care if business get local or state approval first, businesses us to open within one year.
 - If business pass ours, they will pass the State's.
 - There are a lot of qualitative elements in the scoring.
 - There are some elements that would prevent licenses being granted let alone allocation (security plan, etc.)
 - Councilor Mavodones asked if there is any likelihood that the state would approve a security plan but we would not.
 - At the state, you could submit a plan without a location then submit after a location is secured. We will require.
 - When a location is secured, even if the security plan box is checked, a specific security plan must be submitted.
 - Licenses will be signed off concurrently; Portland's boxes must be checked for the state to sign off and vice versa.

- In some municipalities there will just be a sign off, in Portland there will be more hurdles.
- o Councilor Chong asked about business plan scoring. How far in depth do we go?
 - Experience and finances determine ability to manage high cash flow business.
 - In current proposal we don't, but they don't get as many points.
 - This qualitative analysis changes the application process and could include a group looking at applications or public comment.
 - Councilor Chong likes this approach and would like to most heavily weigh business plan review and have EDC help with that review.
 - Chair Ray said some municipalities have application evaluation committees (West Hollywood) comprised of government of industry representatives who do not have interest in those local business. She realized this is harder but it prefers it and sees it as equalizing between smaller and larger applicants. Scoring the business plan is an important element to scoring the licenses.
- Councilor Thibodeau sees it as important that businesses have some basis for success and this process could do that. He has issues with judging success from the city's perspective. He is not sure about each individual criteria but can work within the framework.
- Councilor Mavodones agrees with Councilor Chong:
 - There is a place for proposal review but is not sure he wants a committee.
 - o We are not loaning money or asking for requests for proposals.
 - He has thoughts on the criteria and their point values.
 - If there are 25 applicants and we only have 20 licenses, the unsuccessful ones would need some outlet for protest and that could be litigation.
 - He would like an ordinance that doesn't wade too far into people's business.
 - Criteria that make sure we have successful businesses to the extent we can.
- Chair Costa wants us to stay grounded that this is a licensing system and nothing else.
 - We could do a blind lottery or first come first served.
 - We are not choosing those options, but scoring for a tie breaker.
 - We have specific numbers.
 - This is not a request for proposal, it is a licensing scheme.
- o Chair Costa asked if there is anything on the staff proposal that counselors would like to look at. All things being equal, would these be useful in breaking a tie: Socially and Economically Disadvantaged ownership, etc.?
 - It is an open question if we will hit this cap.
 - Once you check off all the boxes, you will be issued a license.
- o Councilor Chong understands it is a licensing scheme and that these points are for tie breakers; he wants people with a financial back ground to determine tie breakers and business analytics as an important element of tie breaking.
 - Chair Costa sees this as an additional item to add to the rubric.
- o Chair Costa Sees the meeting include suggested additions and omissions.
- o Chair Ray said we will see applications of varying quality and that this scheme won't yield the most successful businesses.

- o Councilor Mavodones suggested taking up the rubric at the next meeting.
 - Chair Ray agreed and that it will give individuals an opportunity to talk about the items on it.
- Safes
 - o Councilor Mavodones appreciates the feedback from the community and staff.
 - There needs to be good security and that appears to be in what is presented.
 - It offers flexibility.
 - o Councilor Costa is not an expert and sees it offering flexibility but will wait to weigh in until he looks at more of the public comment.
 - o Councilor Chong recommended to add a measure that per dollar per square foot in a space to account for growth of the volume of sales.
 - Commander Sweatt said that the points made are under consideration; businesses will have a significant amount of money invested and have thought through their projected sales. He wanted to provide an objective analysis.
 - o Councilor Thibodeau thanked Jim for the follow up in the memo to allow for the standardization of the inspections and the sense of uniformity that process.
 - He appreciates the expectations of costs and the flexibility added.
 - Jim said that some businesses have already bought safes.
 - o Chair Costa is open to removing the specifics from the ordinance as he is not an expert and using administrative regulations instead.
 - He is concerned from policy perspective about the specifics.
 - o Chair Ray asked if Council sees these standards being put in ordinance.
 - The baseline is already in the ordinance and could be pushed in regulations if a standard is given. PD can approve an alternative.
 - Chair Ray is comfortable with taking the specifics out of the ordinance and instead have the police approve them. Looking at the space requirements she is concerned how much space would be left after this.
 - Commander Sweatt agreed; PD wants to be involved.
 - o Chair Costa confirmed people are generally ok with that and Anne will red line it.
- Seating and consumption.
 - o Seating is not allowed or on-premises consumption at all.
 - o Marijuana products cannot be sold where non-marijuana products are sold and consumed.
- Chair Costa would like to take up the bonus points at the next meeting, including the rubric and what staff have given.
 - o He would like to put a timeline on this and wrap this up ideally at the next meeting.
- Remaining items: performance guarantee, points, and seating/consumption.
- Councilor Mavodones thinks there needs to be two more meetings for public comment.
 - o Two meetings, one finalizing the items and one for public comment and vote.
- Wrap up by the end of February.

Councilor Chong moved to adjourn; councilor Mavodones seconded and the motion to adjourn passed unanimously.

Meeting adjourned at 7:19 PM.