



Special City Council Meeting Re: Cannabis Worksession - Monday, January 11, 2021, 4:30 pm ****VIRTUAL MEETING**** **1/11/2021**

BURLINGTON CITY COUNCIL

REMOTE MEETING WITH CALL-IN

BURLINGTON, VERMONT

SPECIAL MEETING – CANNABIS WORK SESSION

MINUTES OF MEETING

January 11, 2021

MEMBERS PRESENT: Jack Hanson

Jane Stromberg

Sarah E Carpenter

Joan Shannon

Ali Dieng

OTHERS PRESENT: Eileen Blackwood

Jordan Redell

David Mickenburg

Chris Pearson

Tyeastia Green

Laura Subin

Graham Unangst-Rufenacht

Geoffrey Pizzutillo

Virginia Renfrew

Mark Hughes

Joshua Decatur

Shayne Lynn



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1. CALL TO ORDER and AGENDA

A quorum was not reached for this meeting. Councilor Hanson called the work session to order at 4:32 PM.

VOTING: unanimous; motion carries.

2. PUBLIC FORUM

2.01 Verbal Comments

No comments at this time.

3. DISCUSSION: MARCH 2021 BALLOT QUESTION ON CANNABIS

3.01 Discussion Regarding March 2021 Ballot Question on Cannabis

Councilor Hanson introduced the work session as a discussion of local-level regulation of cannabis, which will help Council members gain insights on options for the City of Burlington in terms of its authority to regulate cannabis in the context of state statute. He said the work session will also focus on staggered cannabis retail licensing and how it would impact Burlington. Each speaker will introduce themselves and summarize their work around cannabis in the state and then councilors will have the opportunity to ask questions and engage in group discussion.

Senator Chris Pearson introduced himself and spoke about the bill passed by the Vermont legislature, Act 164. He said that the bill represents the first successful move towards removing prohibition on cannabis. He said that because it was passed after some opposition from both the speaker of the house and the Governor, it contains many compromises, one of which is the policy in which municipalities need to opt in to allow retail cannabis outlets to open. He said that one challenge is around small growers and how to get them to market, since medical dispensaries have been operating for several years under a restricted environment. He said another challenge is in how to set up retailers quickly enough to generate revenue for the State, and that one option is to allow dispensaries to come to market first, which could also provide an outlet for small growers. He said that the legislation requires a question placed on ballots so that the voters can opt in and approve of a retail market. He said that Burlington would be able to control the Local Option Tax revenue and that he is supportive of setting up a fund to assist historically-disadvantaged communities and individuals.

Joshua Decatur spoke next as the chief executive officer of Trace, which provides regulatory track and trace software. He said that his company is working with the Racial Justice Alliance, the Northeast Organic Farming Association (NOFA), and other organizations to tackle social issues around cannabis legalization, adding that the current beneficiaries of unjust systems stand to benefit if nothing is done to change the status quo. He said that a people-oriented approach is necessary when exploring how Burlington should opt in and enter the cannabis market.



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David Mickenberg, an attorney working on drug policy reform issues, talked about his work on Act 164, saying that it advocates for reform of cannabis laws. He said that Act 164 was passed to provide an opportunity to establish a regulatory framework for cannabis in order to guarantee both safe access to cannabis for those who can't grow their own and wider access to the cannabis industry. He spoke about the consumer protections detailed in the bill around testing, packaging, educational materials, and environmental and pesticides standards. He noted the bill's provisions for widening access, which are intended to establish a system of small producers and allow them to come to the market earlier. He also noted provisions to ensure that drug offenses aren't an automatic disqualifier for market participation. He clarified that the opt in requirement in the bill is only meant to apply to retail, and whether towns and municipalities will allow retail. (He noted this, since language proposed by City Council for a ballot question also includes activities such as cultivation and product manufacturing, which are outside of the scope of what the legislation contemplated when it passed Act 164.)

Geoffrey Pizzutillo spoke next, as the executive director and co-founder of the Vermont Growers Association. He said that cannabis is still a relatively taboo topic, and that many growers still operate in the shadows. He said that one of the important items for the association's members is the ability to transition into a legal marketplace, and added that the association continues to push for more quality and equity when it comes to access.

Virginia Renfrew, a consultant who advocates for medical marijuana and lobbied for Act 164 on behalf of Vermont dispensaries, spoke next. She said that Vermont currently has the most restricted medical marijuana law in the country. She said that Act 164 has language that speaks to the importance of medical cannabis program. She said that dispensaries are already regulated by the state and can help to start bringing in revenue to fund the program. She said that allowing small growers to sell their product prior to large growers would promote a craft growing industry. She noted that the Act is only asking cities and towns to pose the question to voters on whether they want retail in their city or town, and that any other components of ballot questions are separate from Act 164.

Shayne Lynn of Champlain Valley Dispensary expressed concern about the language in the resolution that would allow for larger outside companies to come into the market, since even though they are entering the market later than smaller, more local growers, they are still likely able to be more competitive.

Graham Unangst-Rufenacht, the policy director at Rural Vermont, spoke in support of the resolution and being part of the coalition working with the Racial Justice Alliance, Trace Vermont, the Vermont Growers Association, and NOFA Vermont. He said that his organization had previously worked on the 2018 legislation around dispensaries and growing cannabis. He noted that this coalition has felt left out of the process at the state level and so working at more local levels is the only alternative, and that they are pushing for more equity and access in the market. He said that small growers have not been given the opportunity to provide testimony.

Laura Subin spoke on behalf of the Coalition to Regulate Marijuana. She said that the conversation needs to be centered around the harms of prohibition on communities of color. She urged the City to use the 1% Local Option Tax to build up programming that would increase access to BIPOC community members and work on criminal justice reform. She said that the Council's resolution language as written would not prevent dispensaries from entering the market after small growers, since they could apply for other licenses and become vertically integrated. She also expressed concern about large business entities being detrimental to small farmers and retailers, and said that the current resolution language would not



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prevent that. She said that the ballot question should be simply and clear.

Mark Hughes of the Racial Justice Alliance testified on the senate bill in 2018-2019 and how it had no provisions for equity and said he would continue to fight for equal access for the BIPOC community. He said that the resolution language would make space in Burlington for start-up businesses in the BIPOC community and that it would not cause unintended consequences for allow smaller businesses to enter the market first. He suggested that the ballot question be used in conjunction with other tools within the City's authority to make its own rules and ordinances to fill gaps where needed.

Councilor Carpenter asked for clarification around the concept of delaying integrated licenses from entering the retail market in order to prioritize small growers. She also noted that the City does not issue licenses, which is in the State's purview, and asked how the City itself can promote small growers and allow them to obtain licenses more quickly. Mr. Pizzutillo replied that licenses would initially begin to be issued in May of 2022 to smaller growers, and that everyone would be allowed into the market 5 months later. He noted that many smaller businesses are saying that 5 months is not enough, and that it would likely take around 12 months after obtaining a license to get a business up and running. He noted that existing dispensaries would be able to transition almost immediately from medical to retail cannabis. Mr. Mickenberg noted that in terms of getting small businesses into the market, those prioritizations were done on the state level and at the Cannabis Control Board level. He said that prioritization is built into the statute. He also noted that licensing can be done by the State, but Act 164 does set up a local cannabis board, equivalent to what is done around alcohol licensing, and that whatever inherent authority a City has for alcohol, they can have the same level of authority for local cannabis control board. He noted that large growers can't be licensed at a local level prior to being licensed at the State level. Senator Pearson agreed, comparing this to the City's authority over bars. He added that there is nothing to prevent a dispensary owner to get a retail license in addition to its medical license.

Councilor Dieng agreed with having a simply-worded item placed on the ballot for the voters to consider. He asked if a conversation around prioritization needed to be put on the ballot or if it could be worked out at a later date. City Attorney Blackwood replied that yes, that could occur. Councilor Carpenter said that the resolution would ask the City Council to prioritize those issues in a resolved clause, not the voters.

Councilor Shannon asked if there were consumer representatives at this work session (there were not). She said that she appreciates the effort to use the Act to support the BIPOC community, but was uncertain that keeping integrated businesses out of the market for some time would necessarily do that. She said that any barriers to entry into the marketplace could make businesses choose to set up retail operations in other bordering towns and cities with less restrictive markets (for example, South Burlington), which would disadvantage Burlington and its consumers, and would have a negative impact on any revenues from the 1% Local Option Tax. She also said she is in support of a simple ballot question.

Ms. Subin said that a primary goal of the City Council should be centered around the BIPOC community, since they have been the most harmed by prohibition. She said that the needs of small growers and of the BIPOC community are often intertwined. She urged that this be the central focus of at least one of the commissioners on a locally-established cannabis commission.



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Mark Hughes said that licenses will start to be issued in May 2022. He said there will be a period after the first five months that will only allow for growers and integrated businesses to come into the market, a challenge of which is that a lot of BIPOC don't own land and can't grow their own cannabis.

Councilor Hanson asked if the vertically-integrated businesses would be buying from small growers, since that seems to contradict vertical integration. Senator Pearson clarified that dispensaries had to become vertically-integrated prior to this, since there were no other components of the cannabis market that were allowed to operate. He said that the bill would allow dispensaries to grow their own cannabis or purchase from small growers. Ms. Subin said that the statute doesn't require them to buy from other growers, which is a concern, but other states ran into a supply shortage when they when they first began their retail cannabis programs, so this makes sense. She added that the law requires them to buy a certain amount of their supply from small growers instead of large growers. Mr. Pizzutillo pointed out that growers don't want to move into contract growing.

Councilor Hanson asked City Attorney Blackwood if the City could prohibit out of state licenses or applicants above a certain size. He asked if the City has any authority over the issuance of licenses. City Attorney Blackwood said that the local control board would operate similarly to that of alcohol, and that when regulations are written they provide guidance about what the City can regulate. She said that the City cannot prevent large growers from obtaining a State license.

Councilor Carpenter asked if the CC could, through ordinance, establish who can and cannot open a store. City Attorney Blackwood said that cannot by ordinance condition an operation on any basis other than those stated in the statute, but can condition it on local license, zoning regulations, and violation of conditions placed on a license. She noted that because they have to go through a local control process, that could move at a different pace than the state level.

Director Green said that this process should be as racially-equitable as possible, and that those who have been harmed by past prohibition policy need to be centered in this conversation.

Mr. Mickenberg clarified that growers can obtain both a grower license and a retail license.

Mr. Lynn said that the concern among vertically-integrated dispensaries is whether they will lose jobs if they no longer conduct some of the components of the process. He said that a major concern is that there will not be enough supply, and it will take a marketplace to fulfill the demands. He said that the dispensaries want to collaborate with small craft growers.

Councilor Carpenter asked how much the medical market has diminished in states where there is now legal adult use. Mr. Lynn replied that since 2018, in Vermont, it's decreased by 30%. He said that Colorado's medical market has decreased over time, but has found a floor. He said that the medical market has different requirements on THC limits in its product, which makes it different than the requirements for the retail market.



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Mr. Decatur said that the definition of a medical dispensary made it synonymous with vertical integration. Councilor Carpenter asked if the other dispensaries operating in Vermont could open up branches in Burlington. Mr. Mickenberg said that geographic location is a consideration when determining whether a dispensary can get a license currently.

Mr. Pizzutillo said that it will be important to consider the needs of smaller growers who may not have access to land or capital, and that they should be centered in the decision to phase in access to licenses. He said that Burlington can either lead by example or follow by status quo.

4. ADJOURNMENT

4.01 Motion to adjourn

With no objection, the meeting adjourned at 6:33 PM.

RScty: AACoonrad