

**AGENDA SPECIAL MEETING ANTIOCH CITY COUNCIL
CANNABIS STANDING COMMITTEE
COUNCIL MEMBERS WILSON AND THORPE
THURSDAY, AUGUST 20, 2020
3:00 P.M**

Special Meeting
3:00 P.M.

August 20, 2020
Meeting Conducted Remotely

The City of Antioch, in response to the Executive Order of the Governor and the Order of the Health Officer of Contra Costa County concerning the Novel Coronavirus Disease (COVID-19), held the Cannabis Standing Committee meeting live stream (at www.antiochca.gov/csc/meeting/). The Cannabis Standing Committee meeting was conducted utilizing Zoom Audio/Video Technology.

1. ROLL CALL

City Attorney Smith called the meeting to order at 3:19 P.M.

Present: Council/Committee Member Wilson and Council/Committee Member Thorpe

Staff: City Attorney, Thomas Lloyd Smith
Legal Secretary, Rakia Grant Smith
Outside Legal Counsel, Ruthann Ziegler
Community Development Director, Forrest Ebbs
Planning Manager, Alexis Morris
Economic Development Director, Kwame Reed
Minutes Clerk, Kitty Eiden

2. INTRODUCTIONS

City Attorney Smith gave introductory comments and provided parliamentary procedures.

3. PUBLIC COMMENT ON AGENDIZED ITEMS - None

4. POTENTIAL REVISIONS TO CANNABIS ORDINANCE - Receive staff presentation, discuss and advise staff on potential cannabis ordinance modifications including potential cannabis overlay district modifications.

Economic Development Director Reed presented a PowerPoint presentation of the current overlay district and potential modifications for the following locations:

- “L” Street at Second Street – Bond Manufacturing Building
- Somersville District
- Slatten Ranch area

He commented that the “Cannabis Standing Committee (“Committee”) may want to consider natural barriers when discussing buffers.

Community Development Director Ebbs explained the required separation between residential properties ~~and to a~~ cannabis use was problematic because when a conflict was identified it was difficult to determine if it was legitimate such as when properties were separated by a railroad track or highway. He suggested the Committee consider removing the separation requirement from the statutes and placing it in the guidelines. He commented that the guidelines could then state that Council should consider the proximity of residential units based on site layouts and obstructions. He noted there were additional ways to solve potential conflicts than providing more distance.

Legal Counsel Ziegler reported Concord’s locational restriction was 250 ft. and only applied to K-12 school, daycare center or youth centers, and Contra Costa County’s buffer was 1000 ft. She agreed that looking at physical barriers was reasonable because it would provide more flexibility. She commented that State law did not mention residential in terms of restrictions. She stated the Committee could also consider reducing the 600 ft setback for schools, daycare centers and youth centers.

In response to Council/Committee Member Wilson, City Attorney Smith clarified staff was asking if the Committee wanted to look at overlay districts that fit within the current standards of the cannabis business Ordinance or explore loosening some of the constraints that were not required by the State to open more locations for the overlay districts.

Legal Counsel Ziegler noted State law required the buffer for sensitive uses be measured from property line to property line so that was what the City was using for residential uses; ~~however, it had caused issues with certain properties within the City.~~

~~Director of~~ Economic Development Director Reed displayed the site plan for the Kmart parcel which showed the drive aisle on the property being located within the buffer zone.

~~Director of~~ Community Development Director Ebbs and Director of Economic Development Reed clarified options before the Committee included: aA) kKeeping the statutory buffer in place but reducing it; bB) mMoving the buffer for residential from the Ordinance to the guidelines considering residential conflicts and major barriers; and cC) rRemoving the residential buffer from the Ordinance and complying with State regulations.

~~Director of~~ Community Development Director Ebbs explained that the findings or guidelines could acknowledge that residential separations would be considered with a distance suggested; however, they could stipulate that applications would be considered on a case by case basis, based upon barriers etc.

Legal Counsel Ziegler questioned if the Committee would want to stipulate a distance requirement.

~~City Attorney Smith commented that he did not know if Council would be comfortable with removing the residential buffer completely.~~

Legal Counsel Ziegler stated they could retain the 600-foot residential buffer and stipulate that it may be decreased based on physical barriers and other considerations.

~~Director of Economic Development~~ Director Reed commented that areas being proposed were not areas typically surrounded by residential.

Legal Counsel Ziegler commented that typically cannabis businesses involving testing, manufacturing, and distribution did not want to be in residential areas.

Planning Manager Morris added that any amount of certainty or specific guidance that could be given to applicants upfront would streamline the process and make the City more competitive.

~~Director of Community Development~~ Director Ebbs commented that another option would be a very specific expansion of the cannabis overlay zone then any conflicts could be eliminated prior to applying the zoning overlay.

In response to Council/Committee Member Wilson, ~~Director of Community Development~~ Director Ebbs recommended removing the residential buffer from the Ordinance and placing it in the guidelines, as criteria to consider. In addition, he suggested expanding the overlay district as proposed by ~~Director of Economic Development~~ Director Reed this afternoon.

~~Director of Community Development~~ Director Ebbs reported that he would be working on updating the map to identify all youth centers that meet the definition under State law.

Following discussion, the Committee directed City Attorney Smith to come back to Council in late November with expansion of the overlay district and options including removing the residential buffer from the ordinance and changing the buffer distance for residential.

5. ONE PLANT OPERATING AGREEMENT - Discuss One Plant's Operating Agreement including its social equity program.

City Attorney Smith reported that he and Legal Counsel Ziegler had been negotiating the One Plant Operating Agreement including the Social Equity component. He explained that they had connected One Plant with Youth Services Network Manager Johnson to discuss how to develop a program to be funded by their social equity investment.

Legal Counsel Ziegler announced that the staff report contained the One Plant Operating Agreement Draft which highlighted proposed changes for all future operating agreements. She noted that staff would be requesting operators with existing operating agreements to agree to a first amendment. She noted that she along with City Attorney Smith supported the social equity program as proposed because One Plant would be working with City staff to fund a program to meet the goals and terms.

City Attorney Smith added that staff believed if One Plant worked with Youth Services Network Manager Johnson there could be a funding stream for youth services activities designed by a City employee who understood the needs of youth in Antioch.

In response to Council/Committee Member Wilson, City Attorney Smith stated he would be happy to include Youth Services Network Manager Johnson in the next committee meeting.

Legal Counsel Ziegler commented that One Plant had requested the same phased approach as the three operators that had approved programs. She noted that she had proposed a \$50k minimum to One Plant who proposed a \$25k minimum instead.

In response to Council/Committee Members Wilson and Thorpe, City Attorney Smith stated that prior to this item going to Council, he would have dialogue with One Plant and Legal Counsel Ziegler to ensure their proposal was comparable to the negotiated agreements with other operators in terms of dollar amount and involvement in the community.

Legal Counsel Ziegler explained that One Plant wanted to open and understood that they could not do so without an approved Operating Agreement and Social Equity program. She reported the building they wanted to occupy had experienced vandalism, so they wanted to occupy the building to generate revenue.

In response to Legal Counsel Ziegler, Council/Committee Members Wilson and Thorpe directed staff to come back to the Standing Committee with the Operating Agreement including the social equity program with a presentation by Youth Services Network Manager Johnson, prior to this item going to Council for consideration.

Council/Committee Member Thorpe suggested providing One Plant the opportunity to speak on this item at the next Committee meeting.

Discussion ensued regarding the public comment period for the meeting, with the Committee agreeing to allow the One Plant representatives the ability to speak this afternoon.

Council/Committee Member Thorpe requested in the future staff consult with the committee members with regards to structure of the meeting. He noted they could elect a Chair so they could connect with staff to make those decisions.

Chris Hester, representing One Plant, commented that they had no issues with creating a great social equity program with the City and he wanted the City's advice on how they could best impact Antioch. He provided examples of what they were doing in other cities. He reported their Antioch location was plagued with arson and damages and they had lost a substantial amount of money. He stated that given the nature of developing a social equity program with staff he expects that it could take a few months. He noted they were attempting to establish that they know they must develop something great for the community; however, they have issues with not being opened right now and they were losing tax revenue for the City. He explained that they were trying to establish setting a threshold because they did not know what revenue would be generated immediately so they did not want to burden the business but they wanted to guarantee

that they paid a certain amount and they would work up from there. He asked the City to help them with getting opened and reiterated that they wanted to establish a great program for Antioch so when they expand to other cities, they could use Antioch as a great example.

In response to City Attorney Smith, Mr. Hester stated that once they have approvals, he believed they could open in a matter of weeks. He noted that they would be willing to meet again in a week so they could provide more clarification so they could get on an agenda quickly.

City Attorney Smith stated next committee meeting he would make the representatives of One Plant panelists.

Matt Emory representing One Plant, reported that he had spoken with Youth Services Network Manager Johnson and explained that they wanted to ensure accountability that their dollars were used in a fruitful way to enrich a program that they supported. He commented that they wanted to be an active member in the community. He stated they had to stabilize the business so they proposed a minimum of \$25k but it was a percentage of topline sales so the more successful the business was the more they would be able to contribute to the business. He stated they would be in the community for a long time and they wanted to ensure from the City's perspective that if they committed to a program, that program was dedicated and the funds would be used for that purpose. He stated they were looking for a partnership with the City. He commented that they could be opened within three weeks from approval.

In response to Legal Counsel Ziegler, Mr. Emory clarified that their social equity program was comparable or exceeds existing social equity programs that had been approved by delineating the schedule and percentage with a minimum annual guarantee. He asked the Committee to approve their program and they would continue to work with Youth Services Network Manager Johnson on the mechanics of a program. He stated they were looking at being active members of the community and he personally sat on various non-profit boards because of that. He noted he was committed to success and helping the vulnerable members of the community.

City Attorney Smith stated that their financial numbers were comparable; however, it made sense to set another committee meeting to hear from Youth Services Network Manager Johnson to look at programming details.

Council/Committee Member Thorpe agreed with City Attorney Smith and he thanked the applicant for providing clarity. He stated he would speak with City Manager Bernal to make him aware that this program was a priority so it would move along in a timely manner.

Council/Committee Member Wilson agreed with Council/Committee Member Thorpe and stated she needed to see the youth programming piece. She noted the process was delayed initially by One Plant and City would make this a priority; however, they wanted to ensure that the Social Equity piece was comparable.

Mr. Emory discussed his involvement in the Boys and Girls Club and mentioned that Antioch did not have one in the City, so they were directed toward Youth Services Network Manager

Johnson because the City was desiring a program. He commented that they committed on purchase, construction and funds for a program that had not yet been developed.

Council/Committee Member Thorpe responded that he believed Youth Services Network Manager Johnson would help him work and build off existing programming. He stated they were looking for a commitment to the concept plan. He commented that he would have liked to see them opened a long time ago; however, there had been resistance to the Social Equity program from One Plant's consultant.

Mr. Emory explained that they had moved past that individual.

City Attorney Smith reported that One Plant had disbanded from the consultant who was the source of the resistance to the Social Equity program.

Mr. Emory stated they were desiring as a company to advance this and he was committed to developing new or participating existing programs within the City of Antioch. He noted he would like to ensure that their dollars were dedicated to such a program. He asked that the City inform them of whatever was needed to advance their project.

Council/Committee Member Wilson and Thorpe, City Attorney Smith stated he would follow up with Youth Services Network Manager Johnson and One Plant to schedule a future meeting so they could present their social equity program to the committee.

Council/Committee Member Wilson requested that she be emailed agendas for future meetings.

6. INDOOR CANNABIS CULTIVATION a. Discuss and advise on indoor cannabis cultivation.

Legal Counsel Ziegler reported that the City was contacted by an attorney from a local landlord inquired as to whether the City had restrictions on indoor cultivation. She explained that currently the City did not have any restrictions on indoor cultivation, and they were not required to, but she questioned if the Committee wanted to move forward and develop restrictions. She noted under state law, cities and counties had to allow a small amount of outdoor cultivation and there were restrictions on indoor cultivation. She reported that some City's regulated it, some ban it and some control quantity. She noted personal cultivation had to be for personal use. She explained that the question was whether the city wanted to impose any limits on indoor cultivation.

Council/Committee Members Thorpe and stated that they believed the City should follow State law with regards to Indoor Cannabis Cultivation.

7. MESA ANTIOCH, LLC REQUEST FOR AMENDMENT TO BILLBOARD LEASE AGREEMENT

- a. Discuss Mesa Antioch, LLC's request to amend billboard lease agreement to permit cannabis advertising.

City Attorney Smith reported that Mesa had been prohibited from advertising cannabis: however, now that the City had a Cannabis businesses, Mesa is~~they were~~ requesting an amendment to their billboard lease agreement to permit cannabis advertising. He noted the City may want to look at the contract terms to see if there could be a greater benefit to the City due to the expanded ability for them to advertise cannabis. He requested direction from the committee as to whether the City should engage in these discussions.

Legal Counsel Ziegler added that the City had discretion to approve, reject or direct staff to attempt to negotiate more favorable terms.

Council/Committee Member Wilson supported opening discussions regarding an amendment to their billboard lease agreement with Mesa Antioch, LLC. and bringing the information back to the Committee.

8. INFORMATION ON ACTIVITIES OF EXISTING AND PROPOSED CANNABIS BUSINESSES

a. Contra Costa Farms

City Attorney Smith reported Contra Costa Farms had been making regular monthly contributions in the amount of approximately \$60k.

Legal Counsel Ziegler added that the City had an increasing range so with this year being 2% of gross receipts, next year 3% and the following year 4%. She reiterated that they were working with them on the first amendment to the Operating Agreement to implement suggestions from the Finance Department and she would have an update soon of the status of their Social Equity program.

b. Delta Dispensary

City Attorney Smith reported Delta Dispensary had been making monthly contributions in the amount of approximately \$20k.

c. One Plant

Update provided in agenda item #5

d. Alluvium

City Attorney Smith reported that Cookies was interested in becoming an investor of Alluvium and if Council approved an amendment to the Operating Agreement Cookies would be a partial owner. He noted if approved, Alluvium would get an infusion of cash which would help them follow through on their business model and get them up and running.

Legal Counsel Ziegler commented that Cookies in house legal counsel indicated that their intent was to have both Cookies and Lemonnade in Antioch, which she believed to be great news for the City. She noted it may take 6-months for them to become operational at their site. She further noted that she had been told that the papers were signed, and they were in escrow waiting for Council's approval at their meeting on August 25, 2020.

e. Cookies

Legal Counsel Ziegler reported she had been in contact with Cookies legal counsel and they were moving forward.

Planning Manager Morris reported that the Cookies application was not fully complete, and they were waiting on parking information and they were not prepared to set an agenda date yet.

f. Others

Legal Counsel Ziegler reported that Natural Supplements had approached the City and their application was deemed incomplete. She suggested that they could approach other businesses in the greater East Bay to see if they were interested in Antioch.

City Attorney Smith added that if the Committee did not have any objections, they would suggest being proactive and contacting other businesses that could be a benefit to the City.

Legal Counsel Ziegler stated she was not ruling out additional retail; however, she was thinking in terms of manufacturing, distribution and testing since the City lacked those types of businesses.

Council/Committee Members Wilson and Thorpe supported a proactive approach and requested Director of Economic Development Reed participate in that endeavor.

~~Director of~~ Economic Development Director Reed stated that expanding the overlay zone could also facilitate manufacturing, distribution, and testing cannabis businesses.

Planning Manager Morris reported that last week they had received a resubmittal from Natural Supplements and an application from Element 7.

9. MOTION TO ADJOURN

On motion by Council/Committee Member Wilson, seconded by Council/Committee Member Thorpe the Committee adjourned the meeting at 5:01 P.M.

Respectfully submitted:

Kitty Eiden

KITTY EIDEN, Minutes Clerk