

Safety Committee Minutes

Honorable Council
City of Newark, Ohio
June 17, 2024

The Safety Committee met in Council Chambers on June 17, 2024 following the Street Committee meeting with these members present:

Bill Cost, Vice Chair
Beth Bline
Michael Houser
Jeff Rath
Bradley Chute sitting in for Mark Labutis

Not Present
Mark Labutis

We wish to report:

1. Ordinance No. 24-23 AN ORDINANCE AMENDING CHAPTER 850 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO, TO IMPOSE LICENSING REQUIREMENTS FOR ADULT USE MARIJUANA FACILITIES.

Mr. Lang – Thank you. I wanted to bring this ordinance to the Safety Committee. Thank you for your time. This was the original licensing legislation I had always hoped to bring forward with the idea being access and information. I want to make sure our safety forces have access to these facilities. I want to make sure that we're getting all the proper information. We made a number of changes throughout the legislation to include adult use. So, just going through some of the things we did and the definitions, we've added adult use to make sure they're covered by this legislation. We updated the licensing requirement. The way it was originally worded, you just had to first obtain a license, now you actually need to maintain a license. Which is important when I get to one of these other sections I'll explain that a little more. Scrolling down to the section on licensing applications and fees. It was important that we updated some of the responsibilities relative to getting your license renewed to ensure that our safety director doesn't have to go chasing people down. We've stiffened the penalty and ensured that you have to every year provide a new application, so you get updated information from the different dispensaries and different facilities. You have to renew that application, you have to submit a \$500 fee by January 1st every year. If you don't, the Safety Director will issue a cease of operations to your facility and shut you down. If you continue to operate after you've been sent that notice, there are penalties. I'll get

to that at the end. As part of the renewal application process, again you have to every year get that application approved again. So, then in 850.05, I'm just scrolling down the sections, we added some language to allow folks to appeal the decisions of the Safety Director using the Administrative Code sections, and our Law Department can speak to more about what that process entails, but we do have a separate section for how our process would be handled if we had a decision of the Safety Director to reject somebody that would otherwise qualify. 850.06 is a really important section. I think a big part of this. This is where we are updating our implied consent to search. If you open up a dispensary, you are giving the Safety Director and the police an implied consent to come search your facility at any time, making sure you maintain that access and allow access in to the safety forces to come and review your facility. In 850.07 we go through the grounds for, we didn't really spell this out before, when a Safety Director should not issue a license and when they should issue a license. In section A we say if you're not properly licensed by the state, if you're found to be non-compliant with any state or city code, if you're located in an area where a marijuana facility is prohibited, if you haven't received your conditional zoning from the Board of Zoning, all of those are grounds for your license not being accepted or not being renewed. So, that happens again every year, even if you are accepted the first time. Now, section B, you could have all those items. You can be in compliance with state and city code, you can have your conditional zoning, be located in the right spot, the Safety Director can still refuse your application, and he can say his grounds for that and take it to Council. So, in section B, that is where we laid out that process. If the Safety Director has an issue, they would notify the Clerk of Council that 'hey, I'm refusing somebody who otherwise has a state license otherwise meets all of our zoning requirements, but I'm still going to reject them and here's why'. Upon getting that notice, the clerk is going to schedule a public hearing, and the thought behind the timing of that was at least 15 days so there is enough time for everybody to prepare and get their ducks in a row. No more than 30 days, because we don't want to just let this thing sit out there forever. Once we schedule the hearing we want to make sure there's notice back to the person who's being rejected that this public hearing is going to happen. Once we get to the public hearing, a vote of 7 votes of Council will be required to affirm the decision of the Safety Director. The thought being there, you look at our other rules as far as how many votes it takes to do certain things, 7 votes is generally reserved for the more extreme actions of Council, which I think in this instance would be. We could be shutting down an ongoing business that hasn't done anything wrong according to the state or our zoning code. Treating this much like we do an emergency piece of legislation, things of that nature, seemed appropriate. If we are in a situation where you have an existing facility that is now being rejected, they can continue operating while this process plays out. The thought being obviously that decision needs to be affirmed before we can really shut them down. If Council doesn't affirm that decision, if somebody's in compliance with the state requirements, city requirements, zoning requirements, we would go ahead and issue them a license. 850.08 then adds penalties. So, as it was explained to me, under existing code if we don't really specify, and please correct me if I'm wrong, if we don't specify a penalty, it defaults to kind of the lowest level misdemeanor. It's \$150 fine, no jail time, anything

like that. We felt that if somebody is operating without a city license, they're opening up a dispensary, or their license wasn't renewed and they continue operating, more severe penalties were appropriate in that situation. The other one would be if our police are going to do a search and they're not permitted access. Anybody who doesn't fall in line with those two provisions will be guilty of a first-degree misdemeanor, which carries with it \$1,000 penalty and up to 6 months in jail. I've never felt that I would like to see one on every street corner. I think this is not about trying to find a way to expand or have a whole slew of dispensaries everywhere. I think that is what our zoning code is for. Really, the focus of this legislation should be to provide information and access, ensure we are talking with the safety forces, they're getting that information updated every year, and we can look to our zoning code, which still needs to be finalized, and go through Planning Commission when we talk about limits on where they (inaudible).

Mr. Rath – Under 850.08 under penalties, you said it was comparable to first-degree misdemeanor with a \$1,000 fine and up to 6 months is that correct?

Mr. Lang – Correct.

Mr. Rath – So, that's anybody selling marijuana of any form, without a license.

Mr. Lang – I don't think this would supersede criminal code, so I think all of those felonies for continuing, you certainly want to ask our Law Department on that, the intent here is really this misdemeanor is just for violating this statute, opening up a dispensary without a city license. You could still be subject to other criminal penalties.

Mr. Rath - Do these penalties increase based on the number of offenses?

Mr. Lang – No, it would just be repeated. I don't know how, I'm not a criminal attorney. I welcome any thoughts from the Law Department.

Michael Cox – Yeah, certainly. 850.08 does indicate that each separate day you could be (inaudible) I don't think this speaks to that. I was not a part of creating this, but as it reads, per day can be charged with this and (inaudible).

Mr. Rath – So, this refers to dispensaries. We have vape shops everywhere, and the vape shops sell whatever it is that they sell. What if the vape shop is selling actual marijuana? A criminal code, does this affect that?

Mr. Cox -This one speaks to, at least on its face, the dispensaries themselves. Possession, trafficking of marijuana are separate offenses. Probably fall under at least the beginning misdemeanor level. Could become a felony depending on what it is. I would think, given the review of this, that this speaks more to those businesses that are geared towards selling marijuana.

Mr. Marmie – This is the legal marijuana that we're talking about here. If it's black market, illegal, then falls with the criminal. This is only the legalized adult use.

Mr. Rath – I don't know how that supply chain works. So, I don't know if vape shops or something, smoke shops could have access...

Mr. Marmie – It's a controlled substance that has to be grown and cultivated every (inaudible).

Mr. Rath – Thank you.

Mr. Houser – You mentioned that in order to overturn a decision made by the Safety Director it would require 7 votes of Council?

Mr. Lang – 7 votes to affirm his decision. So, if the Safety Director is refusing somebody who's issued a license by the state, meets the zoning requirements, and they're refusing that license, that decision to refuse would need to be affirmed by 7 votes.

Mr. Chute – My question was in the same vein as that. There seems like in a lot of instances in the code you would vote to overturn rather to affirm. It seems as though that 7 votes to affirm the Safety Director really isn't giving the Safety Director as much discretion as he or she would have if you were voting to overturn. So, what was the thought behind that?

Mr. Lang – Our Safety Director is here, and he can certainly speak for what he'd like to see on this, but as far as the vote goes, I think, you're at the end of the day you're affirming the decision to shut down somebody who would otherwise qualify to operate. There was never the intent to give the Safety Director a ton of power and discretion. The idea here is the Safety Director can raise his hand and say 'hey wait, this one doesn't look good', and bring it before Council. I think ultimately the Safety Director wants that decision made by Council, not by the Safety Director himself. It's a decision where you're shutting down a business.

Ms. Bline – Mr. Safety Director, do you have anything you'd like to say? Your office has been addressed or mentioned several times.

Tim Hickman, Safety Director – In regards to this particular piece of legislation? No. As far as the vote to overturn any decision, to affirm any decision that the Safety Director would make, that's at the discretion of Council. I really have no opinion on that one way or another. I mean, that would be 70% of the vote, so that's a decision for you folks to make. Our concern has to do with any sort of cap, whether or not we limit the number of facilities that we have in the city for now, so I don't know if you want me to expound on that or have a seat, we'll discuss it later.

Mr. Cost – Maybe we should look at that with the other piece of legislation. I've got to be honest with you. I'm concerned that there is no reference to where these dispensaries can be or how many of them there can be. I think that's the basic difference between how we're all viewing this.

Mr. Lang – If I may, my intent with this one we still have zoning pending. I plan to go to Planning Commission and talk about the potential for buffers between dispensaries. I think that's the number one thing I hear from folks. We don't want one on every street corner. The easiest way to do that is in our zoning code. We can put it right in our zoning code that they have to be some distance apart. The state says at least a mile. We can make that a mile and a half, we can make that two miles, and then we can ask our zoning department how many will that allow. I think there's other things you can do with that zoning that would further restrict it, and I would certainly say if that's the concern, gosh, that's the piece of legislation. It's literally zoning. It's designating where facilities can go. I think that's our best tool to be able to really do this correctly.

Mr. Cost – I think, again, that's where the difference lies. I think the best tool is to have both of those spelled out together, but that's my opinion.

Mr. Houser – I think the Safety Director hinted at it. I think the biggest concern I have is this legislation doesn't make any mention of any sort of licensing limitation. I had a broad discussion about this at the last Council meeting and I still am in favor of

implementing that licensing limit as part of this legislation. For that reason, I would love to move forward with our ordinance that was brought forward at the last Safety Committee meeting that contained that licensing limit. Thank you.

Rochelle Volen-Smith, 237 Violet Ct. - I guess I'm confused between the legislation of this and CBD products which seem to be available anywhere, and there doesn't seem to be a whole lot of control over vape shops. They're servicing such products. I wonder whether this is going to be included in the discussion?

Mr. Cost – I'm afraid I'm going to take you back to the Law Director on that one. I don't claim to have a wealth of background on different forms of marijuana.

Ms. Volen-Smith – It seems like a number of shops are sort of crossing the line of this.

Mr. Cost – They're definitely two different situations. Do you want to address this?

Mr. Cox – This piece of legislation that that we've been contemplating for a period of time (inaudible) state legislature as far as what regulates CBD and what doesn't, this is geared towards medical marijuana, adult use marijuana at that point in time. I don't know all the specifics of (inaudible).

Mr. Lang – We started to talk about whether a limit is appropriate, whether it's not, and quite frankly, it's really not relevant to this piece of legislation. I drafted this with the intent of creating information pathways for the Safety Director, creating mechanisms ensuring the we've got access. The idea of a limit doesn't need to happen as part of this legislation, and if you support this legislation that doesn't mean you can't later pass a limit when those licenses are going to be issued, which is not until September. The idea of saying I can't support licensing now because we don't have a limit in here, to me seems premature rejection of I think a pretty good piece of legislation, when we're still waiting to see what's going to happen with zoning. We still don't even know how many licenses the state is going to issue, and we know they're not even going to start issuing them until after September. The idea that we need a limit right now to me is premature, and is quite frankly, bad law.

Mr. Rath – We've had this debate over and over again. We had it a long time ago when it came to medicinal marijuana, the dispensaries in that area, and that debate was lengthy and thorough. I think that we got it right. There were no limits. Legislating within the licensing for medical marijuana, those limits were imposed by the zoning. I think like I said, the zoning has been very, very effective. They're limiting where these facilities can open up, and even limiting the number of facilities. Honestly, there's not that many places to be able to open up a facility. With that, I will make a motion to adopt 24-23.

Motion by Mr. Rath to send Ordinance No. 24-23 to full Council, no Second

Mr. Chute – Mr. Chair, I'd like to make a motion to take Ordinance No. 24-20 from the table, please.

Motion to remove Ord. No. 24-20 from the table by Mr. Chute, Second by Ms. Bline, passed

2. Reconsider **Ordinance No. 24-20** AN ORDINANCE AMENDING CHAPTER 850 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO, TO IMPOSE LICENSING REQUIREMENTS FOR ADULT USE MARIJUANA FACILITIES, TO LIMIT THE NUMBER OF

MARIJUANA DISPENSARIES OPERATING WITHIN THE CITY OF NEWARK, OHIO, AND DECLARING AN EMERGENCY.

Mr. Marmie – Thank you, Mr. Chairman. Cannabis AKA marijuana is now a legally controlled substance in the state of Ohio, just like alcohol. Prohibition, let me take you back a little bit in time. January 6, 1932 the AP put something out on the press. I'll share this with all of you so you can look at it. Five members of the alcoholic prohibition research committee depart on a bus named Diogenes, named after the man who sought in vain for an honest man in New York City June 1, 1932. The membership is seeking one drunk who has been reformed by the 18th amendment in their campaign against the liquor band. From left are Stephen Duggan Jr. assistant investigator, Russell Salmon Chief Investigator, Ernest Boorland Jr. member of the Executive Committee, Robert Nicholson Assistant Director, and Paul Morris the Director. Why do I have this framed and why do I have it with me? Russell Salmon is my grandfather. So, it's in my blood to do what's right by the law. City of Newark in 2016, November election, cannabis was decriminalized as a result. The now legally controlled substance cannabis is not tracked as a separate legal offense, has not been tracked by Newark or Licking County courts, however, alcohol is tracked as a separate drug in the offenses there. Overdoses from cannabis do occur, however, they are not life threatening. They result in anxiety, panic attacks, palpitations, paranoia, and hallucinations. Meanwhile, someone who overdoses on alcohol can result in death as well as the same symptoms as cannabis. The same ones mentioned before. In Newark, there are significantly less illness emergencies due to cannabis as compared to alcohol. Of the limited number of cannabis issues, most occur to those over the age of 50. Most of the time they are edibles. Calls from services involving marijuana by the Newark Police Department in the last year, or year to date, 82. Calls from services involving other drugs, 216. Calls from service involving alcohol, 560. Where's the problem? Most of my conversations with voters and citizens when this has been brought up in Newark have resulted in comments like it doesn't bother me. I can choose to go or not go, but if it generates money for the city, great deal. How is it any different than alcohol now that it's legal? Why would anyone care if it generates revenue? I hope I don't have to drive somewhere else and support another community. Let's start with this legislation and the whereas clauses. If we number them 1-8 through the whereas, the fifth one down talks about certain zoning restrictions to allow for the operation of facilities for cannabis. However, no zoning will be required because the language of the legislation states the only facilities would be at their current location, which means there are only 3 locations allowed in the city of Newark. The sixth one down, whereas talks about the need for the city of Newark to regulate further than the state of Ohio. The argument that cannabis is still illegal federally implying the state should not usurp the federal government, but this whereas states that Newark should then usurp the state. The saying the voters only want the facilities in Ohio, the state of Ohio, and not in Newark. I think the voters are smart enough to realize that if they voted yes on the issue, then it would be available in their city. I would never imply citizens don't know what they were voting for, and only voted to make it legal in the entire state except for Newark. I case you don't know the numbers, I do have the numbers. The only ward that did not vote in favor was the sixth ward, and which Mr.

Lang has even indicated that he is well aware of that, but that is why he wants to control it. Excuse me, fifth ward. The first ward and the seventh ward both unanimously voted for it. 68%, 32% the first ward. The seventh ward was 66%, 34%. The other wards were all above 50%. The closest one was my ward at 51%, 49%. All the others were anywhere from 56-64%. We do need control over controlled substances within our city. I do agree with that. The comments about comparing these facilities to vape shops and skilled gaming because those facilities attracted illegal activities. I agree. They did. These facilities are trying to sell a legally controlled substance. They would not want illegal types of drugs or illegal activities near their facilities. That would risk their license with the state of Ohio and their ability to sell what they're trying to sell, because there would be a direct competition. They will police it more than the city will have to police it just like the medical has. Plus, we have had only one incident at any of the three current facilities, and that's when somebody tried to entice our Newark Police Department to do something wrong. It had nothing to do with facility. They just used that facility to stage what they were trying to do as far as entrapment of our NPD. There were not violations or any laws broken at that time. Section 3780.25, I'm going to read it. A. The legislative authority of a municipal corporation may adopt an ordinance, or a board of township trustees may adopt a resolution by majority vote to prohibit or limit the number of adult use cannabis operators permitted under this chapter within a municipal corporation or within the unincorporated territory of a township respectively. Nowhere does it authorize a municipality to only allow a particular set of individuals. It does not authorize that if only if you have a current license can you do it. It says the number or prohibit. Nowhere does it authorize a municipality to allow at a current location. Specifying that you can only do business right here. Discrimination is not against the law if such discrimination is justifiable through fact such as actuarial evidence, statistics, and even AI getting involved in fact finding. In this situation, the city is unfairly discriminating against current users by stating they can only operate if they do not move. Currently, two of them could be in violation of the adult use Ohio law which indicates they cannot operate within a mile radius of each other. Not allowing one of them to move may cause one of them to not be allowed to operate just because of their current location. Nothing to support that moving to a new location would cause any type of harm to the community. If not forced to move, they would still be allowed to operate, they could sue the city. Plus, do we want local government to have the power of the exact location where somebody has to do business in order to stay in operations. Further, if not allowed to move, a landlord has them over a barrel as a landlord can then increase their rent knowing the entity cannot relocate or they could lose their business. The business owner could sue the city because they put them into that position. Stating that only 3 current entities can operate in this municipality is unfairly discriminated against other entities without just cause. Other entities could file discrimination suits for allowing only those in possession of a medical license can have an adult use cannabis license. Plus, it is not authorized like I indicated by the Ohio Revised Code. The Law Director's office drafted the legislation that puts the city at risk of litigation with little to no defense to legal allegations or wrongdoing. The ordinance in front of you that we're discussing now which was drafted by the Newark Law Director's

office demonstrates a bias against a legally controlled substance in Ohio. The Law Director's office refused to assist Councilman Lang's legislation which opposed the legislation biased towards cannabis, a legally controlled substance. They would not provide any legal opinion on the subject matter of his drafted legislation. An email sent to Councilman Lang indicated they would only approve to form and would not provide any legal assistance. Due to the biased nature of the Law Director's office and discriminatory language which puts the city of Newark at risk of litigation, I believe this Council should get an unbiased legal opinion from an independent source before moving on with this legislation. I believe that this city has to have a legal opinion. I've run this by 2 attorneys and a judge, and they indicated that it does not authorize the city of Newark to be able to limit to only a specific type and at a specific location. It allows you to prohibit or limit the number, but you cannot say who can get those specific licenses. Thank you.

Director Hickman – One thing to clarify, I had a conversation last week with one of the 3 dispensaries, call and was asking some questions. Councilman Lang mentioned that licenses aren't going to be issued until September. Not in their thinking. They're hoping by the first of July that they will have clearance from the state. So, I just wanted to make everybody clear on that. No one is proposing a ban. No one's ever said that we don't want this. Our concern is what is this going to do to an already strained first responder system? We don't know. Councilman Marmie brought up several different numbers. Whatever those numbers are and whatever form adult use cannabis comes in, those numbers aren't going to go down. It's going to create more calls for service. So, our concern, where we're coming from this, and we got some advice from the state of Ohio, or the police department did, is proceed with caution. We can always expand this. Expansion is easy. If we get too far out in front of this and we find out this isn't working, and we have to try to retract it, in my perspective that's where we've got a big problem. So, this isn't about bans. It's not about any hidden agendas or anything like that. It is out of an abundance of concern for our safety forces.

Mr. Lang – One quick clarification. I was speaking to adult use only licenses. So, the practical effect of enforcing this dispensary limit is to prevent somebody from getting a state license that is only operating as an adult use. Those licenses are not being issued before September. In my view, this is not an appropriate use of the emergency clause because we don't have an emergency. There's nobody other than the medical dispensaries that are able to apply and get licenses right now. That's not going to change before September. That is the first thing I wanted to clarify. I think there is a lot of talk of well we just want to be conservative now and we can open it up later. That's fine, but that's not what this legislation says. This is a permanent piece of legislation. There is no time limit. I've suggested time limits. Nobody wanted to put one in there. This piece of legislation goes on in perpetuity. To take further action by Council. As I know from my private practice, you need to look at the words on the page. You can't assume what people are going to do in the future. You can't agree to bad law, bad language with the idea of down the road we can fix this. Just fix it now. Put in a limit. Say it's only going to last for a year. You could address Mr. Marmie's comments relative to 3780.25 by instead of saying it's these 3 specific operators at these 3 locations,

putting in a limit of how many adult use licenses we're going to issue. That would be another way to do this that is much more in keeping with what the state of Ohio said we can do, which is limit the number. Not say who those licenses go to. There're some other issues that I think need to be cleaned up with this, and quite frankly, this is kind of what happens when you take somebody else's piece of legislation, slap some other terms on it, throw it on the agenda. I don't understand why we are still removing the definition of medical marijuana dispensaries because that is used later on. I'm surprised we don't have a definition for adult use dispensaries. That wasn't included. Why do we have the whole idea of the Safety Director rejecting a license if we say it's these 3, and we're all in agreement these are the three, why do we need to have a whole new process for rejecting the license if we're going to limit it? So, to me you can't just take a piece of legislation, slap something on it, and this is how we're going to do it. You got to go through all the terms and make sure everything ties together. I just think there's a lot of pieces missing here. Again, I go back to what we still don't know. None of that's changed since 2 weeks ago. We haven't had the Planning Commission meeting yet. We don't know when the state is going to issue licenses outside of medical. We don't even know how many licenses the state is going to issue, or how many of our 3 existing places are going to get a license. There's time to do this later on. I'm not saying if you don't pass this tonight you can't do it later on. There's time to do this later on certainly as an emergency. Certainly, before they start issuing licenses which, again, we're at least 90 days out. I think that's all I have. Thank you.

Deputy Chief Logan, Newark Police Department – I'm going to echo what the Safety Director said. Align with him on the ordinance. I'd like to elaborate a little on what he said. Licking County has a Chiefs' meeting every month where all the command staff comes in and we all meet in different locations throughout the county. We also have a bunch of people that come from state agencies. They meet with us to update us on what's going on in the state. Like Director Hickman alluded to, we have a gentleman that is in the division of cannabis control through the Ohio Department of Commerce. He updates us every month on what's going on and what he said is just wait. He said every day something changes over there. Something comes up. Somebody pushes this, somebody pushes that. They don't know what the final outcome is going to be because every day something's changing. He tries to keep us up to date, but he is just saying be very cautious about doing anything because you don't know what the rules and what's going to happen yet. They're not even sure. I just wanted to clarify.

Mr. Marmie – I want to agree with what Deputy Chief Logan just said. Just wait 'til we find out everything. I agree 110%. That's exactly what we should do.

Mr. Houser – We debated this out a lot last Safety Committee as far as opinions on either side. I don't want to get into that too much, but there was a point at the last committee meeting, and Director Hickman kind of elaborated on this already, that there's some discussion that we're introducing prohibition again and some reference to that. I'm not sure where that's coming from. I don't see anywhere in this legislation that we're not going to have recreational marijuana licenses available for the 3 medical facilities. If we're banning it outright maybe that's a fair point, I don't know, but that's not what is being discussed here. So, I'm not really sure where that's coming from.

There were a lot of statistics read about alcohol being more problematic. I'm not an expert in that regard. Maybe it is. That doesn't change the fact that I think being cautious in this regard as it has been mentioned multiple times, is still the best route forward. I agree alcohol may have its problems and challenges. (Inaudible) don't disagree with that at all. I don't think that really goes against the point that was made here. There were also discussions made about generating revenue for the city being a positive thing. I think that's true. It's important for us to have revenue from taxes to run the city, but I think it's also important that we want to make sure that we're also protecting out city and having the right kind of businesses that we want. I think that's a goal we need to also run alongside that. That's all that I want to cover right now. I know we had a lot of discussion at the last Safety Committee meeting, debating the point back and forth, but I did want to comment on that. I guess the other thing I mentioned is that the Law Director will certainly have mentioned involved in drafting this legislation. I'm no expert on this, but since we are limiting the number of licenses issued I feel like that would apply within that paragraph on the Ohio Revised Code. I'm no expert on that, that's why I leave that up to the Law Director's office. Thank you.

Mr. Bline – Does the Law Director's office have any comment?

Mr. Cox – I was not involved in the drafting of this. At this juncture, I will leave that to Ms. Moore. I appreciate that, thank you.

Mr. Chute – On behalf of the Law Director's office, can I ask a question?

Mr. Cox – Certainly.

Mr. Chute – Generally speaking, will we have the discretion to be more prescriptive than a state statute with respect to what they are broadly defining?

Mr. Cox – Yes, certainly. Hearing the definition of what was being discussed in the revised code section there is a lot of (inaudible) that is being given to municipalities, townships, things of that nature. There's some discussion about duration of this, what you can do, what you can't. Personally, I never met a piece of legislation that can't be changed, amended at any period of time. So, I think the ball is in your court as Safety Council, City Council at large to address as you see fit.

Mr. Lang – I just wanted to offer, section B the limit, we are saying we are doing this pursuant to the authority given to us under 3780.25. We are going beyond the authority given to us in 3780.25 when we say these 3 operators specifically at theses 3 locations. We are setting ourselves up for a potential lawsuit from somebody who can't get a renewal lease from their landlord and now can't move to any other location. We could potentially be sued by somebody who comes in, let's say only 2 of these facilities get adult use and a third wants to come in, they have a potential lawsuit against us because we're saying the number but you don't qualify because you're not in one of these locations and you're not one of these 3 operators. I think there are some questions here. I have not spoken directly to the Law Director. Mr. Marmie pointed these out to me just this week. So, I don't think it's anything she's had a chance to look at yet. So, do with that what you will. Thanks.

Ms. Volen-Smith – In terms of medical marijuana as opposed to adult distributary services, is there any requirement for monitoring for health effects? For instance, one of

the side effects of marijuana in general is lung and heart defects. Is there any control in that respect with these dispensaries in terms of liability?

Mr. Cost – Not that I'm aware of, but once again, I don't think I'm the person to ask that of. I'm not sure how that is determined.

Mr. Rath – I would say that is beyond the scope of the city government.

Mr. Marmie – To answer questions as far as why the comparison to prohibition, when all came about limiting of everything. It's all about thinking that the problem will go away if we make it illegal. The thing is that I'm in agreement with the law. You either want to prohibit, or limit the number. The reason why the prohibition is that there are council members that have told other council members that they want to prohibit it. So, I want to make sure we just don't go that direction either. I know this current legislation does not say prohibit, but I am aware that there are folks that do want to prohibit. So, I just wanted to make sure that that argument was out there to begin with. I don't believe that limiting in a matter of being discriminatory towards things. Everything else that we do in the city with businesses we limit based on zoning, and we limit because we don't want it near our churches, we don't want it near our schools, we don't want it near a certain density, or has to be within a certain area. I just want to make sure that we are being fair. Do I want to see these on every street corner? No, I do not. Do I think that 3 is enough? Yeah, I think it'll serve the community. I believe that will also get some outsiders coming in and I believe they're going to use Walmart. I believe they're going to go to Home Depot. I believe they're going to go to all the other restaurants in that area if they do visit our municipality the city of Newark. Do I believe that it'll be a huge big boom as far as economic development? No, but every little bit helps when it comes to economic development. I want to do it fairly, non-discriminatory, and I want to make sure that we're pro-business and not that government entity that wants to just control, control, control. We want to manage, we don't want to control business. We want to manage our city and I agree with Mr. Houser, we want to make sure that we don't have a huge density. Why are the streets so wide on Main St.? Anybody know the history? They wanted to make sure they were wide enough so the 18 horse wagons full of beer could turn around, and there was nothing but brothels all the way down Main St. That's the history of Main St. and why it's so wide. So, we want to do things that are right for our community, yes, we want to make sure that our community is not littered with certain things. We've done that with other businesses and limiting the zoning code I believe that's the best avenue. I've done research. I'm no attorney, but I did a lot of research on this. I didn't see anything that really showed the limitation of a business in which anybody said that they can only be in one location. I see it all being done with zoning, however, I still see lawsuits with zoning even because it can't be unfairly discriminatory. There have been cities and municipalities that have been sued because of their zoning codes. Newark has a good one. Ours is pretty iron clad. It's been very, very well tested, well thought out. Especially, we changed it here just years back. It hasn't been too long ago. The old one was just antiquated. It wasn't up to date with all the new different types of businesses. I believe that is the direction to go. I believe that's the way to limit it, or we just limit it to just 3. Don't be specific. That violates what we're doing or what the law 3780.25 allows.

Ms. Volen-Smith – Why are we adding the presence of churches to restricting marijuana usage? I can see the schools saying that we want to discourage children from being affected.

Mr. Cost – I believe that is already stated. There were so many regulations. 500', 1000' and that's not just the schools. It's other things as well.

Ms. Volen-Smith – We used to have no liquor on Sundays. That's changed and that was because of separation of church and state. Why are churches a factor?

Mr. Lang – Mr. Chair, if I may? She is speaking to the zoning legislation which is really not on the table before you guys. We just copied what the state had. They had those same categories. We just used the same. That's what we did back when we had medical. We just used the same categories that the state already was prohibiting. It was going to be 500' (discussion in the crowd).

Mr. Marmie – Churches were added because they have Bible study classes with children. They have other things, activities that involve children. There's a lot of activities that they do not want that type of activity around because of the influence of children.

Mr. Rath – I'm going to restate my concerns with this. Should this legislation pass today and then go on to Council, and it passes at Council, I'm sure it's going to be on the front page of the newspaper, and I want you guys all to take that page and frame it like this. It'll be a point in history that we're all going to (inaudible). The point in history is going to be the day that Newark City Council and the Newark City government began its trek towards socialism. I don't know about the prohibition, but for a government to come through and say who can win and who can lose, that is socialism. That is a socialist government. For us to say that this person and that person can operate here, but that person and that person cannot, or nobody else cannot, that is socialism. That is wrong. That is not what this government is supposed to be. That is not what any of us were elected to be. I won't participate in passing anything that has those types of restrictions. I have no problem with restricting the number of licenses. I have no problems with it at all. You want to restrict it to 3, restrict it to 3. You want to restrict it to 5, restrict it to 5. I don't care. I do have a problem with restricting one, because I don't want a legislative Monopoly. That's the same thing I said for medicinal marijuana. But to say who can and cannot have those licenses, I think that's wrong. I'm done.

Mr. Lang – One final thing I wanted to clarify. As the only elected official here who can say that my constituents actually did not support issue 2, I want to make it very clear, I am not in favor of letting the streets run wild and putting these things on every street corner. I have worked very hard to try to bring forth sensible legislation both in terms of our zoning and our licensing that I think fairly regulates this in Newark. My opposition to what you guys are about to vote on is not in any way having to do with whether I disagree with having a limit or not having a limit. I think it's just bad law. I've tried to point out several issues. Mr. Marmie has pointed out several issues. I would love to see those addressed by the folks who are in favor of this. If not, then it's clear to me that we don't really care about passing bad law, we just to get things through and get them done. So, I would hope that folks would at least listen to the concerns that we've raised

and that the possible future ramifications of adopting this as written limiting these to where they are today forever. Thank you.

Mr. Cost – I think we've heard a fair amount of discussion on a fairly broad view of issues all the way from the width of Main St., to our march towards socialism, but I really think what we're after here is to deal with one concept. That is safety. I think our director of safety, our police are trying to enforce that we want to start this in a very slow manner. We want to start where we've had success with the 3 locations for medical marijuana. I don't think, I'm not aware of any problems that have from that. I think that would be a natural place to start, and we can always expand. I haven't seen a piece of legislation in 9 years that can't be amended. It can be amended. You start slow, you start cautiously, and we try to do this in a manner that gives the most safety to the city of Newark. That's all I've got. Thanks.

Ms. Bline – Just one last comment. These decisions are not being made outside of citizens guidance. I've spoken to many, many. They've called me, they've emailed me, we've sat down. They know this is a legislation of moving parts. They know infrastructure is part of it. They know zoning is part of it. Their largest concern is community impact, and they are trusting us to go slow. Not only for the business of the city, but for the livelihood of their families, because that's why we're here. We're not here to stand or yell about things that happened 150 years ago, but we're here right now to be Newark first. We are Newark first. We are here for our families. We were elected and put here by our families. So, it's for them that I'm voting for this.

Mr. Marmie – Can I ask for the Law Director's legal opinion on my comments on what I believe to be illegal on as far as the language that is in there going further?

Mr. Houser – Mr. Chair, I think he's already commented that he has not drafted the legislation.

Mr. Marmie – Point of order, I addressed the Chair, not Mr. Houser. Can I ask for the Law Director's office legal opinion?

Mr. Cost – If the Law Director's office is willing to speak to this, that would be fine.

Mr. Cox – I will decline that opportunity because again, I'm not the one that drafted this and (inaudible) conversations that each of the council people present here have had with Ms. Moore. (inaudible)

Mr. Marmie – So, how can we proceed if the Law Director's office can't give a legal opinion about my concerns about the legality of it, and I've had other attorneys tell me that it was not? How can we still proceed?

Mr. Cost – I think the only way we can proceed is what's the issues that are in front of us. What's written in front of us, and what we think we have to either vote for or against. I think we've certainly heard from a wide range of viewpoints. Mr. Houser, you started to say something.

Mr. Houser – No, I just wanted to make a comment that there is a motion on the floor, and given the time constraints I think it might make sense to call that vote.

Motion to send Ordinance No. 24-20 to full Council by Mr. Houser, Second by Ms. Bline, passed 4-1 with Mr. Rath voting no.

Safety Committee stands adjourned

Bill Cost, Chair