

COMMITTEE OF THE WHOLE

March 27, 2023

12:00 p.m.

**Councilman Denny Whayne Conference Room (Busch Building, 4th Floor)
And Electronically**

MEMBERS PRESENT: Monica Horton, Abe McGull, Mike Schilling, *Matthew Simpson, Craig Hosmer, Richard Ollis, Andrew Lear, *Heather Hardinger and Ken McClure.

MEMBERS ABSENT: None

*Member attended via Zoom.

STAFF PRESENT: Bob Belote, Director of Parks and Recreation; Anita J. Cotter, City Clerk; Regina N. Crumrine, Executive Secretary; Jason A. Gage, City Manager; Chris Hoeman, Chief Litigator; Maurice S. Jones, Deputy City Manager; Rhonda Lewsader, City Attorney; Collin Quigley, Deputy City Manager; Paul F. Williams, Police Chief; and Lana R. Woolsey, Assistant City Attorney.

GUESTS: Andrew Sullenger, reporter *Springfield New-Leader* and other news media personnel (did not sign in).

Mayor McClure called the meeting to order at approximately 12:05 p.m. and roll call was conducted. Present: Horton, McGull, Schilling, Simpson, Hosmer, Ollis, Lear, Hardinger, and McClure. Absent: None.

Councilwoman Horton moved to approve the minutes of the February 1, 2023, Committee of the Whole meeting. Councilman McGull seconded the motion and they were approved by the following vote: Ayes: Horton, McGull, Schilling, Simpson, Hosmer, Ollis, Lear, Hardinger, and McClure. Nays: None. Absent: None Abstain: None.

Jason Gage, City Manager, introduced the continued discussion of the Missouri Constitutional Amendment 3, Chris Hoeman, Chief Litigator, and Lana Woolsey, Assistant City Attorney.

Lana Woolsey opened the presentation by stating it was a follow-up to the previous meeting where Amendment 3 and the legalization of recreational marijuana in Missouri were discussed. She summarized most of the City Council is concerned with public consumption of marijuana. Ms. Woolsey provided an overview of the agenda for the meeting. She noted she had been asked to go back and speak with the Park Board. The Park Board is concerned about not only the consumption of marijuana, but also the presence of it in park facilities, on park properties, and at

park events. Ms. Woolsey is reviewing the park rules on their behalf to see if they need to be amended.

She said they would discuss whether an update or new City Code provisions need to be drafted. Ms. Woolsey stated they hoped this would address the concerns of City Council and the Park Board, help stay in compliance with Amendment 3, and address any resulting gaps between State statutes and City Code provisions.

The Park Board is concerned with the safety and wellbeing of all its patrons. Members of the Law Department looked at the jurisdictions in Missouri, and several cities are discussing public consumption. The only city with a completed ordinance was Jefferson City. They passed a city code provision in February 2023. Handouts included a copy of this provision. She discussed the definition of public place. Mayor McClure asked if Springfield had a similar definition of public place. Ms. Woolsey replied the City of Springfield did not in reference to marijuana usage.

She went on to discuss most cities restrict the use of marijuana in public access areas. Twenty-one states, the District of Columbia, and Guam have legalized recreational marijuana. Of those, the provisions from Jefferson City, Missouri, Denver, Colorado, and the District of Columbia are included in the handouts.

Ms. Woolsey noted the smoking ordinance would cover any type of smoking, including marijuana, for instance, in hotel rooms.

Jason Gage, City Manager, asked how the researched provisions for consuming marijuana compare to those that regulate the consumption of alcohol. Ms. Woolsey replied she believes it to be an analogous type of regulation. She also noted the majority of the 23 areas researched had some type of restriction on consumption in a public place so users were not affecting others with their decision.

She found four states that restrict the use at all in a vehicle. These include D.C., Nevada, New York, and Maryland.

Ms. Woolsey introduced Chris Hoeman, Chief Litigator, who spoke about the specific provisions that were given to City Council. He discussed the effort to look at Springfield City Code considering Amendment 3 and noted some legal options City Council members would have to regulate marijuana at the City level.

Mr. Hoeman stated the handout outlined the most restrictive marijuana ordinances Amendment 3 would allow and serves as a starting point for discussion. The draft given would cover amounts of possession, not lawful under Amendment 3, but not yet addressed in State statute.

The first subsection deals with individuals under the age of 21. Amendment 3 states it does not allow for people under 21 years of age to be in possession; however, there is currently no State law that addresses this. This provision would make it unlawful for anyone under the age of 21 to possess marijuana, except for someone who had a medical card. Violators would be addressed

with a civil penalty with the option of completing drug education in lieu of paying the civil penalty.

The second subsection addresses individuals who are 21 years of age and up. Under Amendment 3, these individuals are allowed to possess up to three ounces of marijuana. Amendment 3 provides for civil penalties for those possessing up to 6 ounces. There is no State statute to assess those civil penalties. For people possessing more than 3, but less than 6 ounces of marijuana, this draft would allow the City of Springfield to apply the civil penalty that Amendment 3 allows.

The third subsection deals with places where marijuana may be restricted under Amendment 3, primarily educational and correctional facilities. The Law Department is currently researching these institutions for their feedback.

The fifth subsection of the draft gives places a limit. For instance, above six ounces would be reviewed by the Greene County Prosecutor for potential felony drug charges. All felony drug charges would be removed from the scope of the ordinance to avoid overlap from municipal violations.

The next section of the draft handout deals with public consumption. This new section would simply not allow consumption of marijuana in a public place, and City Council would need to define what a public place is. This would ban consumption in any place open to the public or viewable from somewhere that is open to the public. This draft is more restrictive than where we are on either tobacco or alcohol.

Mayor McClure and Mr. Gage asked questions regarding consumption in specific locations. Councilman McGull raised the issue of offensive odor. The topics of odor, place of consumption, and difficult enforcement were all discussed.

Councilwoman Horton expressed concern about the effect these ordinances might have on individuals under the age of 21 and lower-income communities where there tends to be more tolerance. She asked Mr. Hoeman if, during their research, they found any information regarding the impact on various communities. He stated he was not aware of any studies, but the Law Department would be glad to do more research on that subject.

Fines, penalties, and prosecution were discussed among members of the Committee, and Councilman Ollis suggested since this was a new occurrence, maybe some basic rules should be implemented first. Smoking marijuana inside a car and supplying people under the age of 21 with marijuana were also discussed.

Councilman McGull agreed with Councilman Ollis and said this was a good place to move forward and getting something on the books made sense. Moving forward, they may have to adjust. Councilman McGull stated he does believe adopting a public nuisance component into this is necessary.

Councilman Hosmer asked for clarification from the Committee as to why they want the most liberal version. He expressed his opinion rushing into this does not give the Committee the best solution.

Councilman Lear brought up the use of marijuana in different forms and how that relates to possession of an open container in a vehicle.

Mr. Hoeman discussed two points related to accessories. The first would update our current paraphernalia ordinance to exclude marijuana accessories that are protected by the constitution. The second would be a potential new code section dealing with marijuana accessories specifically. It would prohibit possession of marijuana accessories by anyone under the age of 21, possession on school and correctional facility grounds, and prohibits sale of marijuana accessories to people under the age of 21.

Councilman McGull moved to add the proposed draft, with changes, to the April 4, 2023 City Council meeting agenda. The changes to the draft would be the inclusion of an odor provision, addressing the consumption by all occupants in a moving vehicle, changing the definition of public place to exclude residential property, including a deck or patio and a provision that would prohibit the sale of marijuana to those that are underage.

Councilwoman Hardinger noted that much of the discussion had been about “smoking” marijuana and little about consuming marijuana in alternative ways, such as edibles. She raised the question of how it would be proven that someone had been consuming a marijuana product in a moving vehicle and how enforceable it would be. Chief Paul Williams responded by saying that nothing would be enforced based on a visual cue, it would be based on the behavior and characteristics of the driver. This is where a drug recognition expert would come in. If there is a reasonable suspicion, the driver would be brought in for evaluation before any further action would be taken.

Anita J. Cotter, City Clerk, clarified that a motion is not required for adding the amended draft to the City Council agenda, a consent of Council is sufficient. Councilman McGull withdrew his motion.

There being no further business to come before this Committee, Councilwoman Horton moved to adjourn. Councilman Lear seconded the motion, and it was approved by the following vote: Ayes: Horton, McGull, Schilling, Simpson, Hosmer, Ollis, Lear, Hardinger and McClure. Nays: None. Absent: None Abstain: None.

The meeting adjourned at approximately 1:29 p.m.

Approved by the Committee of the Whole on 11-03-23.

Completed by Regina Crumrine