

## **Minutes of June 24, 2025 Special Council Meeting**

Special Council Meeting of the Clayton, Ohio City Council

Clayton Government Center

June 24, 2025

### **CALL TO ORDER**

The meeting was called to order by Mayor Stevens at 6:00 PM. Present were Mayor Stevens and Councilmembers Farmer, Merkle, Kelly, and Bachman. Motion by Merkle to excuse Councilmen Gorman and Henning this evening, Kelly seconded motion. All yeas, motion carried.

### **PUBLIC HEARING**

Mayor Stevens announced that we are holding a Public Hearing this evening for PC25-04, to consider the issue of a permanent ban on adult use cannabis businesses and operators such as processors, dispensaries, and/or cultivators within the City of Clayton. Mayor Stevens explained the process for a public hearing and administered an Oath to anyone wishing to speak on this case tonight. Stevens then asked for a motion to open the public hearing. Motion by Merkle to open the public hearing, motion was second by Bachman. Voting: Farmer-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 5-0.

Martina Dillon, Law Director, advised just to give you a little background as to where we were previously and where we are now based upon recent events. As you may recall previously Council received a recommendation from the Planning Commission to adopt legislation to allow six adult use cannabis operators, adult use is the term that's used in the ORC for recreational marijuana. The recommendation was made by the Planning Commission last November to allow a total of six adult use cannabis operators within the city, and of those six two could be dispensaries and the remaining four could be cultivators and processors in the same districts as where medical marijuana is currently allowed. Currently the city's code allows medical marijuana cultivation processing and dispensaries in the CMX and CMI districts. Additionally medical marijuana processing and dispensaries are permitted in the MSD district; that's the allowance for the medical marijuana. On January 16th Council voted on the recommendation of the Planning Commission to allow six adult use cannabis operators. The result of that was that there was an insufficient number of votes to reject or approve that recommendation. Therefore, it died at that point because it could not move forward. The most recent version of the Ohio budget bill in Columbus, which if the governor signs it before July 1st which it's on track to do that, it would become effective July 1st of 2025. There are a couple of provisions in that budget bill which I understand affects adult use cannabis. The first is that under the current ORC provisions regarding adult use cannabis, municipalities and townships are provided with the specific authority in a specific provision of the ORC at 3980.25 to prohibit restrict limit adult use cannabis operators within your city. The Ohio budget bill proposes to repeal that such that effective July 1st the city or township would not be allowed to prohibit or limit the number of adult use operators within your jurisdictional limits, unless it's done before July 1<sup>st</sup>. The second provision is under the current ORC cities and townships which do have adult use cannabis dispensaries are entitled to receive 36% of the 10% special tax on that, it's basically called the host use tax. If you're a host community that has those adult use dispensaries within your jurisdiction you get tax money from the state. The second provision in the budget bill with

respect to this is you would no longer receive that tax money. If you don't have one of those dispensaries currently operating as of July 1st that's going to be phased out over the period of five years, and you won't be getting any of that tax money. The effect of this budget bill, with respect to the adult use, is to say if you don't have a prohibition or restrictions in effect as of July 1st then you're not allowed to prohibit them from coming into your city and you're not going to get any tax money if they do come in. Therefore, we have put forward a couple of Ordinances for your consideration to prohibit adult use operators within the city to become effective immediately before the July 1st deadline. We had a Planning Commission meeting last night and they voted to recommend prohibition. A couple of things I do want to point out, the ORC does allow for homegrown, so even if you vote to prohibit the adult use operators within the city people are still allowed to home grow and you are not allowed to prohibit research. Currently the ORC allows a 10(B) license which is if you have a medical marijuana operator within your city, which the city does, that's allowed currently. If someone applies for a 10(B) license with the State and they get it then they can also do adult use cannabis. They can tag the adult use onto their medical use, that would not be prohibited if they got a 10(B) license. When I spoke to the cannabis attorney last fall, the logic for that was they've already put out the capital to get the medical marijuana license, that's why they allow them to tack on the adult use to the medical marijuana license.

Mayor Stevens asked, so this is yes or no with no discussion on the number. Dillon advised, right, the legislation in front of you would prohibit them altogether with the exceptions that I just mentioned a few minutes ago, you can't prohibit the home grown, you can't prohibit the 10(B), you can't prohibit the research.

Merkle asked, so the one operator that's operating now on Main Street if he wishes to process adult use he can if he wishes to dispense he can or cannot. Dillon advised my understanding is that's just a processor, right Amanda, he does not have the dispensary license. Zimmerlin stated correct, it's just a processor, so that doesn't mean they couldn't pursue a medical dispensary license, but they have not at this time.

Bachman stated, correct me if I'm wrong that the facility on Main Street is only processing for medical. Zimmerlin stated correct.

Merkle stated, if someone else where to come in to do a dispensary, nothing beyond what we currently have in place right now, this would stop it right now with one entity in operation. Zimmerlin, someone could come in if they received a license from the state for medical, there are still places in the city that they would be able to dispense medical marijuana. If they were then to get the 10(B) licensing they would then be able to distribute adult use recreational marijuana.

Merkle asked, so it kind of comes in a backdoor way of even though you might be prohibiting it, someone medical wise can still come in and do it. Zimmerlin stated, correct, but it's my understanding that the medical license isn't that easy to get. I know that the company that was along Main Street a couple of years ago attempted to procure one of those licenses and even though they're established they weren't able to.

Merkle asked, at this time the city essentially could not act to prohibit or discourage another operation from coming in. Dillon asked, you mean medical wise. Merkle stated medical or if they come in with doing medical then later on if they apply they could get adult use. Both of those potentially could be there, but I'm just saying Council would not have any vote in terms of doing a yes or no, correct. Dillon replied, right, as long as they had the medical license and they

were able to get the 10(B) license for the adult use and they were in the zoning districts where it's permitted then yes, they could do it.

Merkle asked, could we narrow it down to discourage further potential placement, discourage some of the zoning locations where they could be placed so it's only on Main Street. Zimmerlin replied, currently its allowed on Main Street, so the MSD district, CMI and CMX is where it's permitted.

Merkle stated, I'm just saying if it's allowed in more than one area and we can narrow it down potentially to just along Main Street and not out on Hook Road for instance. Dillon advised you could follow the procedure to change the zoning code to even further narrow where the medical marijuana is allowed, if that's what you're asking.

Merkle stated, I think going into the future not having it neighborhood areas where you really don't want this type of operation, you want to have it in a business area. Dillon stated this is commercial mixed use and commerce manufacturing industry That's where the cultivation processing and dispensaries are allowed, and processing and dispensaries are allowed on the Main Street District.

Bachman asked, so anything we're do to my understanding this is just based off a recreational, what we're doing tonight is not medical, right. Dillon stated, right I just wanted to explain the medical and how that 10(B) currently works. I'm just going to say I don't know what the legislation is going to do, they could change this. I am basing this upon what I know now. That's why we drafted the legislation, we wanted to give you another opportunity to look at this and determine if you would just want to go ahead and prohibit it before July 1<sup>st</sup>.

Mayor Stevens asked if there were any other questions.

Kelly stressed her concerns with the residential areas; we wanted it restricted from residential areas. Merkle stated the area on Hoke and Wenger Roads was being rezoned for business operations, and this potentially could be a location where this operation could go in the future, and I do not want to encourage something like that to be placed on Hoke Road or placed in a neighborhood versus a business district.

Farmer asked, Martine just based on listening to last night I wanted to clarify that if we put a prohibition in place, in the future if the city chooses to repeal it later that we would not have any control on dictating the number of recreational facilities in the city, is that correct. Dillon replied, right, if the current version of the budget bill passes, so let's say you go ahead and enact this prohibition tonight and the budget bill passes July 1st and let's say September 1st you want to go back and repeal this then what you would be operating under is the current version of the ORC which says you can't limit the number, unless the legislature goes back and changes the revised code again. But I think you're correct in that.

Mayor Stevens after hearing no further questions from Council, asked for a motion to open the floor for public comments. Motion by Bachman to open the floor for public comments, motion was second by Kelly. Voting: Farmer-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 5-0.

Mayor Stevens asked if anyone wished to speak on this case tonight.

Linda Blum stated thank you for listening to me, I appreciate the opportunity to address you, and I was also here in January, and I want to applaud how well I felt like I was listened to. As a

school board member we felt this was not a good idea for our city and you listened to us, and we appreciate that.

Debbie Pulis asked if the City had received any applications in the last 6 months to a year for an adult use establishment in Clayton. Ms. Zimmerlin stated we have not. Ms. Pulos stated that's encouraging and I'm going to echo what she said, thank you for listening, it's a really important issue.

Chris Pulis stated I want to applaud Martina and Amanda, thank you for bringing this proposal forward. When you look at the House Bill 160 and the Senate Bill 56 they're both exactly what you said Martina, they are stripping away the economic incentive to even do this as a municipality, much less do any of us want this in our neighborhood.

Hearing no further comments, Stevens asked for a motion to close the floor for public comments. Motion by Bachman to close the floor for public comments, motion was second by Merkle. Voting: Farmer-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 5-0.

Stevens asked Council if they had any further questions, hearing none, Mayor Stevens asked for a motion to close this public hearing. Motion by Merkle to close this public hearing, motion was second by Kelly. Voting: Farmer-yes, Merkle-yes, Kelly-yes, Bachman-yes, and Stevens-yes. Motion passed 5-0.

## **NEW BUSINESS**

Ordinance O – 06 – 25 – 07 An Ordinance Prohibiting Adult Use Cannabis Cultivators, Processors, and Retail Dispensaries Within The City of Clayton, Ohio and Declaring an Emergency (Chapter 1121.08). Motion by Bachman to pass the Ordinance as an emergency, Merkle second the motion. All yeas, motion carried. Motion by Merkle to approve the Ordinance, motion was second by Farmer. All yeas, motion carried.

Ordinance O – 06 – 25 – 08 An Ordinance Prohibiting Adult Use Cannabis Cultivators, Processors, and Retail Dispensaries Within The City of Clayton, Ohio and Declaring an Emergency (Chapter 733). Motion by Farmer to pass the Ordinance as an emergency, Merkle second the motion. All yeas, motion carried. Motion by Merkle to approve the Ordinance, motion was second by Farmer. All yeas, motion carried.

Motion by Kelly, second by Farmer to adjourn. All yeas, motion carried.

Meeting adjourned at 6:28 PM.