



City Council Committee on Legislative Matters

Members

Councilor Alex Jarrett, Chair

Councilor Marissa Elkins, Vice Chair

Councilor Stanley Moulton, III

Councilor Jim Nash

MEETING MINUTES

Date: January 9, 2023

Time: 5 p.m.

Video Conference

1. **Meeting Called to Order and Roll Call:** At 5:01 p.m., Chair Alex Jarrett called the meeting to order. On a roll call, the following members were present: Councilor Jarrett, Chair; Councilor Marissa Elkins, Vice Chair, Councilor Stanley W. Moulton, III and Councilor Jim Nash. Also present were Ward 7 Councilor Rachel Maiore and Administrative Assistant Laura Krutzler.
2. **Announcement that Meeting is Being Audio/Video Recorded**
Councilor Jarrett announced that the meeting was being audio/video recorded.
3. **Approval of Minutes of December 12, 2022**
Councilor Nash asked to table approval of the minutes until the next meeting. There being no objection, no action was taken.
4. **Items Referred to Committee**
 - A. **22.201 An Ordinance Limiting the Number of Retail Cannabis Establishments in the City of Northampton, referred by City Council - 12/15/2022**
Councilor Jarrett explained the procedure he would use in reviewing the ordinance. He said he would first invite sponsors to speak, then city officials, then councilors, then the public. Members of the public may each speak for three minutes. Committee members won't respond during public comment but Councilor Moulton will keep track of questions raised and they will be addressed at the end.

Councilor Karen Foster and Rachel Maiore gave a brief overview of the history and impetus behind the ordinance.

Councilor Foster began by dispelling the notion that the proposed cap is a knee-jerk reaction to a particular dispensary, noting that constituents have actually been approaching her with the idea for a cap since she first ran for office four years ago. She also stressed that this is not a referendum on cannabis use per se as residents have already debated and decided that issue as a community. With 11 retailers in Northampton,

there is adequate access to cannabis for medical and adult recreational use so she doesn't see a proposed cap as in any way limiting individual freedom.

The ordinance has two components: 1) capping the number of dispensaries to 12 and 2) providing an exemption for social equity candidates. It was a concern that a cap might otherwise prevent those most impacted by the war on drugs from being able to get into the market, she explained.

The number 12 was selected because it was the number of dispensaries operating at the time the ordinance was introduced. (Since then, the Source on Pleasant Street announced its closing.) Sponsors wanted to respect the enormous amount of time and energy committed to opening a business.

In answer to 'why a cap?' local public health leaders, including Department of Health and Human Services (DHHS) Commissioner Merridith O'Leary, are clearly saying that shifting societal norms and increased access is affecting youth cannabis use, Councilor Foster related. Teachers, social workers and public health researchers she has talked to have pointed to the growing number of dispensaries and subliminal messaging associated with them as a factor in normalizing the use of marijuana. She is glad they live in a community where cannabis is legal and that they do not criminalize marijuana use but, depending on her route, she passes four or five dispensaries on the way to her kids' school. She is concerned because the impact of cannabis use on developing teenage brains is very different from its impact on adult brains. Research is showing that, since legalization, youth are more likely to use and to use more heavily and that such use can impact neurological functioning, including memory and mood.

As a community, she thinks they can balance multiple ideas. In particular, the rights of adults to have legal access to cannabis and concern about the free market and tax revenue can be balanced by concern about youth cannabis use. She thinks it is incumbent upon them as city leaders to consider *all* of the different messages they are sending to the community.

Having heard from their health commissioner, prevention community members and many others in the community asking for a cap, she thinks it is only right to give this conversation its due, Councilor Maiore suggested. There is growing concern about the correlation between the number of cannabis retailers and youth use. She is not anti-cannabis; she knows there are many benefits to adults and different treatments but data on negative impacts is well-established and they are seeing a statistically-significant correlation between the number of establishments and youth cannabis use.

She is curious about the logic of letting the market decide. With programs like green energy incentives and subsidized housing, they already navigate the market for the community in many ways to get to a healthy end goal, Councilor Maiore pointed out. The market is not an elected representative; they do not just feed their community thoughtlessly to the market. She feels like they shouldn't pass the buck and that, as city leaders, it is their responsibility to make these decisions.

It is also important to talk about social equity, she added. What she can say is that the current system is doing zero to address social equity in the cannabis industry. Out of 12 businesses and 14 Host Community Agreements (HCA's), they have a total of one social equity business owner.

She named that it is late in the game to be coming up with the ideal number of pot shops and addressing social equity, but 'here we are.' She would ask the reverse question, 'why not cap?' She thinks 12 is reasonable and that adults have reasonable, convenient access to legal marijuana.

Councilor LaBarge cited research presented by the Northampton Prevention Coalition as well as calls from her constituents as reasons for her support for a cap. In 2018, some councilors felt there was not enough research, but now they have that research, she noted.

Mayor Sciarra made a brief statement reiterating her previously stated and continued opposition to a cap. Among other things, she cited concern that limiting the number of licenses will create a secondary market similar to the one that exists in the alcohol industry. She invited the committee to recognize two subject matter experts for further testimony. She introduced Dr. Robin Goldstein as an economist, lawyer and director of the Cannabis Economics Group at the University of California Davis and, since 2015, advisor to the California Department of Cannabis Control. He is co-author of a book, "Can Legal Weed Win? The Blunt Realities of Cannabis Economics," His co-author, Dr. Daniel Sumner, was also present.

EXPERT TESTIMONY

From his perspective as an economist with a full-time focus on the cannabis industry, Dr. Goldstein gave extensive testimony on the practical and health effects of the proposed ordinance.

With regard to its practical effects, since there are already more than 12 lease holders, the proposed ordinance amounts to a total prohibition of any future stores entering the market except social equity applicants, Mr. Goldstein asserted. Due to high barriers to entry and the criteria social equity applicants must meet, there are very few in Massachusetts. The ordinance doesn't do anything to lower the barriers that already prevent social equity applicants from successfully entering the market. Under the ordinance, they should expect few if any new stores. The city's retail cannabis industry would essentially be locked into the current license holders. In economic terms, this is called a cartel, in this case government-created. As the mayor mentioned, this creates a secondary market for licenses which may be sold for hundreds of thousands of dollars. When new retailers want to come in, they have to buy their way into this cartel by buying out one of the existing owners. If a business is struggling, its owners would have an incentive to stay open until they are able to sell their license to the highest bidder. As an unintended consequence, it could actually result in more blight from abandoned or dormant storefronts, which is already a problem in the city. In terms of new owners coming in to replace businesses that go out; on top of the already high costs of setting up a Cannabis Control Commission (CCC) compliant business, these would also face the cost of buying a license, making it more likely for them to be outside corporations or Multi-state Operators (MSO's).

With regard to the impact on the health and safety of youth in Northampton, he divided the topic into three questions: 1) would the proposed ordinance affect how much cannabis is consumed by youth?

No, the ordinance wouldn't have any impact on the level of use or abuse of cannabis in Northampton either by youth or adults, Dr. Goldstein stated. Data has consistently shown that the amount of cannabis consumed by all ages in a geographic area is not linked to the number of legal retail stores. When legalization comes in, there is a shift from illegal to legal products. The difference is that legal product comes in child-safe packaging and is tested and labeled for potency.

He has reviewed the SPIFFY report that's been discussed and, to him, the data in the report strongly supports the conclusion that the opening of retail stores in Hampshire County starting in late 2018 through now did not actually result in any increase in youth cannabis use. In fact, the data shows exactly the opposite. From 2019 to 2022, use was down 28% percent among 8th graders, 39% among 10th graders and 16% among 12th graders.

He has no idea if signs advertising cannabis affect youth use but this ordinance does not propose restrictions in signage.

Limiting the number of retail stores does not affect use, he concluded.

2) Would the ordinance affect the health and safety of youth and adults, specifically the health risks related to cannabis use and abuse.

They all know people who have had serious problems related to cannabis use, so it is a community priority for good reason. His answer is 'yes,' the ordinance would affect health and would actually endanger youth and adult health by increasing the proportion of illegal cannabis that is untested for contaminants and not labeled for potency. The SPIFFY report mentioned that more than half of the steering committee and other coalition members were extremely concerned about cannabis potency. Youth are generally not aware of potency because half of the cannabis they consume still comes from illegal markets. When legal retail coverage is limited, more of the cannabis that comes through adults to kids ends up coming from illegal dealers and being unsafe because of being of unknown potency.

With regard to the practical effects of having a higher percentage of cannabis legal and tested, according to the SPIFFY report, the number of young people admitted to CDH for cannabis-related issues fell from 72 to 45, or 38%, from 2018 to 2021 among youth. He thinks this public health success can be attributed to the increasing availability of legal tested and labeled cannabis in Northampton instead of illegal.

3) The final point on health and safety is whether the ordinance would affect public safety.

Mr. Goldstein answered, 'yes,' it would endanger public safety and put youth in harm's way by increasing the number of illegal drug dealers and increasing the amount of criminal activity or, at a minimum, preventing crime from naturally decreasing as it has since legalization as the illegal market gets pushed out. These increased risks would be highest in neighborhoods like Florence and Leeds where there are no legal retailers selling safe, tested cannabis so the local market is controlled only by illegal dealers.

Finally, with regard to whether the proposed ordinance will improve social equity, his answer is, 'no,' because it doesn't do anything to make it easier for social equity applicants to get licenses or successfully enter the market, Dr. Goldstein said. Few social equity businesses have applied anywhere in the state. Getting a local HCA agreement is the easy part; the hard part is raising capital and getting through the long complicated CCC process. He thinks social equity applications would continue to be minimal with or without a cap. The intent of voters was to enable a safe, legal cannabis industry to thrive and to drive the unsafe illegal industry out. Because Northampton has plenty of legal retailers, data suggests it has been more successful than most other communities in achieving that and that their community is safer as a result.

As an outsider, Daniel Sumner said that he was not going to talk about anything local but that he could bring some breadth to the conversation. As they know, government-set limits on who can sell and produce are quite common. They generally have one or two direct and clear outcomes; local retail caps or national production and marketing caps raise barriers as designed on the industries and companies that are capped, which tends to raise prices and reduce availability. Some customers pay the higher prices but many of them move to somebody who's not a part of the restricted market. In this case, it is a well-

established, long-recognized and vigorous illegal industry which was at least one of the main reasons for this whole process [legalization]. The community can expect more illegal cannabis and less legal cannabis.

The second general proposition is to say that, across all economic policies, if governments want something, they should do it directly. Trying to do things *indirectly* almost never achieves the desired outcome. General community acceptance of cannabis may raise a problem especially for youth, he acknowledged. If that's a problem, they can deal with that very directly by restricting advertising. There is zero evidence that going from 11 or 12 dispensaries to 9 or 10 or only having retailers run by social equity candidates would reduce the exposure to advertising and promotion and in a sense the normalization of cannabis.

With respect to social equity, the way to deal with it is direct; to say 'what can we do to help redress the problems we've created in society.' That may be through direct funding but the idea that some exemption from a cap will automatically make that problem less onerous flies in the face of broad evidence.

Public Comment

One of the important roles of the City Council is to make laws but one of the things he discovered during his stint is that equally important is the responsibility *not* to make laws, **former City Councilor Bill Dwight** commented. A significant burden applies when city officials choose to limit citizens by codifying restrictions to their freedom. The cap on cannabis retailers under consideration does not meet that burden. It comes from the expressed perception that there are just too many dispensaries in Northampton. He has heard the same thing said about coffee shops, banks and pizza shops, but it is illegal to limit those enterprises.

What they are considering with this ordinance is extraordinary. The ordinance consists of only two 'Where As' clauses, which is unusual, and only one alludes to a reason for establishing a quota; i.e. that the Commissioner of the Department of Health and Human Services (DHHS) has called for the city to establish an upper limit on the number of retail cannabis establishments. Beyond that assertion, no justifications are given to make this law. Similarly, no justification or reasoning for the number 12 is included. The exception for social equity applicants even suggests that, under the right circumstances, that number is irrelevant.

This is a response to an emotional rather than a rational threat. It protects no one in any real way from any of the alleged harms unless they are a current license holder who needs protection from competition. He is very concerned about the argument that they have to manipulate and control market forces. This is not what they are supposed to do. It basically amounts to market manipulations that favor existing vendors. There has to be something far more concrete than just the call for an arbitrary limit to retailers; namely, the determination of a unique hazard that exists supported by clear, irrefutable data and the confidence that the law will be effective and justly applied. That is not the case here, he concluded.

Amy Wilson Cahillane of Florence, Executive Director of the **Downtown Northampton Association (DNA)**, said she was speaking in an individual capacity but with the experience of almost seven years in her position and informed by conversations with multiple downtown business owners. She opposes the cannabis cap for the following reasons: 1) it is an unnecessary regulation coming at a time when the downtown is continuing to recover from the economic impacts of COVID. As they are all aware, there are multiple vacant storefronts, including one recently created by the closure of a retail cannabis establishment, the Source. 2) Regulations such as the proposed ordinance will have a significant impact on the ability of Northampton to attract other cannabis companies, a strange choice to be making in the face of closing dispensaries and empty storefronts and 3) wielding this kind of legislative control over the types of

businesses in Northampton risks chilling other non-business interests as well if Northampton becomes perceived as not friendly to small businesses and/or overly-regulated as compared to other communities.

Secondly and perhaps more importantly, Cahillane cited the risk of development of a secondary market for cannabis licenses as a reason for her opposition. Over the years, Northampton restaurant owners have struggled tremendously with the issue of liquor licenses. With liquor licenses not always available, restaurants looking to open with a full bar are unable to open here and go to neighboring communities. The inflated cost of these licenses on the secondary market makes it financially difficult for a new owner to acquire a license should one become available. Finally, with a secondary market in place, it is virtually impossible to alter or undo that structure without causing financial harm to those businesses who've come to rely on the value of the licenses that they hold. Capping the number of cannabis dispensaries will create the same sort of problematic licensing structure. She can't emphasize enough how challenging and unfair it is and she would strongly urge them to avoid duplicating those problems.

It seems that the initial glut of dispensaries looking to open has tapered off, and no new Host Community Agreements (HCA's) are pending, she noted. Market forces are now limiting dispensaries and she would expect this to continue. For these reasons and given the current economic climate downtown, she is opposed to the ordinance to cap dispensaries.

Leslie Laurie said she lives in **Pelham** but founded Tapestry Health and served for 40 years as its CEO with her office for most of those four decades downtown on Center Street. She then worked for eight years with NETA on Conz Street starting the first medical marijuana dispensary there in 2015 and the first adult use dispensary east of the Mississippi in 2017. She is no longer with NETA but now serves as chair of the Greater Northampton Chamber of Commerce Economic Development Committee. She is deeply committed to both Northampton's economic and public health. She strongly urges the City Council to vote against any limit on the number of dispensaries. The current system doesn't need fixing. Northampton has served as a model for the Commonwealth. Former Mayor David Narkewicz's desire to reduce stigma and treat cannabis businesses as any other has been actualized. There have been no real public health concerns or criminal activity. In fact, Police Chief Jody Kasper has stated that NETA is the most secure building in the city. No one under 21 can enter an adult-use facility, and no one can even look inside as the windows must be blocked. All are interested in a robust business community. Cannabis has filled many spaces downtown and in Florence, not just dispensaries but labs and grows and manufacturing facilities. Will these be the next they consider limiting? The cannabis dispensary market is already starting to self-correct. The Source on Pleasant Street closed in December after less than a year of operation. Cannabis tax and HCA dollars have been used well in Northampton by the city to pave roads and more than \$1.5 million was used to support the purchase of the resilience hub. Noho is currently seen as cannabis-friendly, and that's good for public health and economic activity. Why fix something that isn't broken? She asked. Please vote 'no' on a cap for dispensaries.

Sue Stubbs of Northampton identified herself as a clinician by training and **CEO of ServiceNet** for over 40 years, one of the largest behavioral health organizations in the region providing support and treatment every year to thousands of people affected by addiction. She is also the grandmother of an 8-year old. She shares the compassion of everyone in favor of the cap but is personally against the cap, she advised.

They will not find anyone more interested in protecting their youth and protecting vulnerable people such as the clients of ServiceNet, she assured. She is a strong believer in data and not acting on emotions or conventional wisdom but looking at facts. They can all agree that any cannabis consumed in Northampton

comes from either a legal or an illegal source. She compared the difference in legal vs. illegal products. Among other things, products from dispensaries are divided into standard portions and don't contain other harmful drugs or additives. Packaging and dosage are regulated and dosage is clearly marked on the package. They have all heard heartbreaking stories of young children od'ing on edibles. They don't have data on the percentage of cases from the legal vs. illegal market but they could speculate. According to data in the SPIFFY report, the number of visits to CDH of youth under the age of 21 went down significantly after legalization. If they were to set a cap, it is not likely they would have dispensaries in Florence or Leeds. She would maintain that the unintended consequence of their action would be to provide fertile selling ground for underground dealers to sell dangerous drugs to children especially in those neighborhoods.

Some ServiceNet staff were concerned when a dispensary opened on Pleasant Street, but they saw no negative effects – no crime, no loitering and no public drug use; it was a nonevent. In the long run, the number of dispensaries in their area will be the number that the market can support. As a person in the mental health field for decades, she has seen her share of tragic drug abuse but deeply believes that the way to reduce harm to children and other vulnerable people is to ensure that as large a percentage as possible of the drugs and their local supply is safe and legal.

Lizzie of Florence introduced herself as 'your local friendly sober cannabis addict.' She has never been so offended by a public official and the people they have chosen to speak. Nobody who has spoken tonight has spoken to anybody from the AA or NA communities. The Mayor has not spoken to anybody who is an actual sober addict or alcoholic. People are offended and baffled by statements made previously by Sue Stubbs particularly because she is the 30% owner of a cannabis lab meaning she profits from the industry. She belongs to a support group for families with family members suffering from mental health issues and substance abuse. She brought Sue Stubb's comments from the last meeting to that meeting and many of those families who have no other option but ServiceNet felt cornered, offended and abandoned. She asked them to think about the fact that none of them have spoken to those of them who live it every day. Every single person she has spoken to in AA or NA in the last four years is absolutely struggling more because of the number of cannabis dispensaries. She feels the Northampton community of sober addicts has been totally disregarded by the Mayor, Sue Stubbs and those who have spoken. They are professors, school teachers, nurses, etc. and are all offended and hurt. They need to listen to them and invite them to speak more often. She thanked the seven council members who have taken the time to speak to her directly.

She related the experience of a friend who took her son to a concert in Boston last month. This child said they recognized the smell of pot at that concert because all of the 7th and 8th graders smoke pot. They think it is fine because they assume all of the adults do because of the dispensaries.

Isaac Fleisher of Northampton identified himself as an attorney specializing in representing cannabis businesses. He also grew up in Northampton and is raising two children here so this is an issue that matters to him in any ways. He is absolutely opposed to the cap for all the reasons already stated so well but wanted to use his time to advise them on how to draft an ordinance that at least mitigates some of the unintended consequences discussed if the city chooses to proceed.

The ordinance as drafted has a lot of problems. The enforcement mechanism is not specified and as drafted, it prohibits the number of retailers, not the number of HCA's. Literally in 15 minutes he is heading over to Palmer which has a similarly-drafted ordinance. Since more HCA's than retailers can exist under its cap, Palmer is now enforcing the cap through special permits and it is becoming a first-come, first-served system rather than reflecting the priorities of the city. He would emphasize the importance of being specific

as to how the ordinance is going to be enforced and having clear criteria for choosing between multiple applicants if the city hits the cap. He had the enviable distinction of being the attorney to represent the only applicant not to receive an HCA in Northampton. The process was confusing for the parties on all sides. He suggested that a process for reviewing HCA's be put into the ordinance which does not raise the barrier too high for social equity applicants. The ordinance currently has a carve-out for social equity applicants but he thinks the category should be widened to include DBE's. Social equity applicants are a very small category.

Erin Wolcott of North Maple Street, Florence, said she's on the other side of this issue because her husband has a medical marijuana card and uses medical marijuana to control pain. By the Mayor not approving the shop in Florence, a group of seniors - residents in the center of Florence - are now being discriminated against, she claimed. Florence residents, some of whom are seniors living on less than \$60 a month, cannot walk to a shop and are now forced to spend money on transportation to obtain marijuana. By restricting this, they are restricting the availability of cannabis for residents in Florence and Leeds. Wards 5, 6 and 7 won't get any marijuana shops. That's discrimination, and that's why she filed a complaint with the AG's office.

Florence resident Caroline Johnson asked if she could respond to statements made earlier before making her statement. Councilor Jarrett said he is interested in asking her some questions after public comment but asked that she limit herself to three minutes for now.

She is a public health professional with a Ph. D. in applied social psychology, Dr. Johnson volunteered. As a researcher at SPIFFY, a local substance abuse prevention coalition, she has noticed some critiques of their local youth health survey data; particularly, that it is correlational and that correlation does not equal causation. That is very true. At the same time, she wanted them to be mindful that, when it comes to public health and safety, it is often impractical or unethical to conduct randomized control trials or clinical trials which means they have to rely on longitudinal and correlational data sources when making evidence-based decisions. They can look at rates of a risky health or safety behavior before and after a policy has been put in place to see what happens. She gave the example of traffic safety as another area where correlational studies are used, since traffic studies are correlational. Despite the fact that traffic studies are far from randomized control trials, the data they provide nevertheless shape municipal decision-making and effectively reduce crash rates.

They can see that over time and in tandem with legalization and adult use retailers opening, teens think it is less risky to use cannabis and that their parents are less disapproving of them using cannabis. Additionally, teens in Hampshire County towns with multiple retailers report using cannabis at higher rates than teens in towns with fewer retailers when, prior to legalization and storefronts opening, such gaps did not exist. National data is also accumulating to show that retailer density matters. In Massachusetts, cannabis is the top reason teenagers seek substance use treatment.

As they consider the ordinance before them, she asked councilors to consider the patterns emerging across all data sources and data points and to remember that correlational data, despite its limitations, is used all the time in the realm of public health and safety and that their communities have benefitted greatly because of it.

Heather Warner, Florence, thanked councilors for supporting this bill. She is no longer with the SPIFFY coalition, having transitioned several weeks ago to Massachusetts tobacco control programs. She started working 20 years ago in the 90's when public health officials were first regulating the tobacco industry in

Massachusetts. At public health meetings in which they were crafting regulations such as these they often had restaurant industry representatives and others from out of state opposing the local ordinances being passed. This kind of reminds her of that. It feels like many opposed to the cap are from the industry and many in favor are local residents.

She also is discouraged by the lack of transparency from Sue Stubbs and Robin Goldstein, who both spoke out without mentioning their connection to the industry.

With alcohol, outlet density is a factor in terms of youth access and youth use. As outlet density increases, there is more competition and oftentimes price gouging [sic]. They have seen this in other states with cannabis. When that starts to happen, it is more affordable for young people. Although ID's are needed to set foot in dispensaries, she knows there is a new pathway of young people with medical ID's selling to students without ID's as well as high-quality fake ID's and no real compliance activities are taking place across the state. The Massachusetts Package Store Association is made up of mom and pop shops, but it is the big players they have to worry about.

Similarly, with cannabis, the threat of not having a cap is that big industries can hold out, price gouge [sic] and outsell smaller businesses.

Jodi Shaw, Northampton, a mother raising two children in the city, said one of them on more than one occasion has noted out loud the irony of learning about drug use on a school whose playground affords a view of a large billboard promoting cannabis. Like a lot of others, she believes they have way too many dispensaries in Northampton. She is amazed that many of them are able to stay in business. If anyone has been in a dispensary recently it is highly likely they were the only people in there. This tells her that, if left to their own devices, they are not going to be able to stay in business.

However, if they meddle and allow only 12 licenses to operate, they are now turning what was a competitive cannabis market beholden to the law of supply and demand into a market for cannabis licenses. Failing dispensaries that would normally close their doors due to lack of demand and lost profits would actually be incentivized to stay in business until they can secure a buyer for their license. Most can agree they don't need more cannabis shops. However, the danger in trying to artificially limit the number of shops, at least in the form of licenses that can be bought and sold, is that they will then insure that they will always have way too many cannabis shops in Northampton.

Ezra Parzybok of Bay State, a self-identified cannabis consultant and parent of teens, said he actually helped open some of the retail shops. He is happy to talk about any of the social equity applicants who have host agreements in Northampton because he believes 100% of them are his clients. He is a social equity applicant himself having been busted.

Mr. Parzbok proceeded to read a statement which stated, among other things, that a license cap will be an emotional win for prohibitionists and parents who do not know how to talk to their kids about cannabis but not a win for kids and moving beyond anti-cannabis propaganda. It is also not a win for the black and brown [unintelligible] who spent years fighting for rational drug laws. They rely on the testimony of so-called experts in city and school health departments who have no knowledge of the complexities of cannabis or its consumers and who perpetuate a decades-long drug war tactic of refusing to acknowledge studies unless they point to cannabis harms. That is not science; that is propaganda. Local schools ask kids anonymously where they get their weed and how much they use so they can scare parents into the 'Just say no' party

line. But studies show scare tactics fail to do so. An American Academy of Science study of teens over 15 who use cannabis moderately showed no long-term detriment to their brains. Another study of young adult cannabis use showed an increase in pro-sociality and decision-making skills.

In school surveys they do not ask whether teens are self-medicating untreated trauma or social isolation with cannabis, how they feel about their use, whether it may be reducing their ADHD symptoms as it does with adults or whether they should speak to a physician about a medical marijuana recommendation.

Northampton made international headlines for hosting the first pot shop on the east coast. Northampton could also be the first city which moves beyond the federal stance which holds on to kids as the last ace in the sleeve of prohibition. After being told his time was up, Mr. Parzybok said he would send in his recommendations for proper ordinance language to help children and bring this debate to a close.

Barbara Rakaska, Florence, spoke in favor of the ordinance, commenting that most of the people against it seem to be making money from cannabis. She suggested limiting the number of stores, marketing Northampton towards other businesses and making it viable for other businesses to come in instead of spending all this time on cannabis shops. She fears for their youth. What about other towns that have limited the number of shops? She hasn't heard anything negative about a limit on shops. As a concerned resident and parent, she asked them to vote 'yes.'

Ananda Lenox, Leeds, who works in prevention and has three kids, said she talks to her kids about drugs and alcohol and opioids. They live in a world where there's a lot of things they can ingest to change how they feel and think. She thought legalizing marijuana was a good idea and still does but doesn't understand why it is so complicated to have some checks and balances in place. They're surrounded by communities that have caps and it seems to be going okay for them.

She is concerned about the normalization. If she has an axe to grind, it is that they are very concerned about local businesses but she is frustrated that, after 10 years working in prevention, she is still getting paid from federal grants. They never have the funding they need to really do excellent prevention education. Some health educators say they only have access to 9th graders for one semester and not to even talk about 6th, 7th and 8th grade. The biggest difference she's seen is that so many 7th and 8th graders are smoking weed and going to school stoned. When they looked at the data eight years ago, they did not see that.

She has been working in diversion with an SRO. When asked why they are going to school stoned, these kids say COVID, a death in the family, etc. They just needed to be numbed out. This certainly points to much bigger problems in their society, but she thinks the normalization has made this drug seem like something totally okay to use. She knows there's a lot of science that says there are some benefits but she fully believes that any substance use for young children is not good. It is never healthy for young people to rely on a chemical crutch to help them through these really formative years.

Rick Haggerty, Florence, an elementary special education teacher, thanked sponsors and supporters. Yesterday he came from the funeral of a dear friend, former housemate and business associate of his 25-year old son. Speaking with the father of this young man who died of an apparent accidental drug overdose was heart-wrenching. Looking at the tears of his young friends, their smeared mascara and sorrowful and confused looks reminded him that drugs kill. While there are medicinal uses for cannabis and it is legal, most of the establishments in town are for recreational use which may lead to addictions to this and other

substances. A cap on cannabis establishments is more important than ever regardless of what the local so-called 'marijuana legal experts' and consultants say. His son's death, the death of the young worker in West Springfield, the overdose of a musician-colleague of his late son Phil Haggerty and the latest death of a young, talented person and so many other tragic losses matter.

He has shared with the council a link and an excerpt from a research report from the National Institute of Drug Abuse. In summary, have both a heart and think before voting on the topic of a cap in their dear city, he urged. He concluded by quoting from a National Institute of Health publication: "Because marijuana impairs short-term memory and judgment, it distorts perception. It can impair performance in school or at work and make it dangerous to drive. . . Regular use by teens may have a negative and long-lasting effect on their cognitive development putting them at a competitive disadvantage and possibly interfering with their well-being in other ways. Also, contrary to population belief, marijuana can be addictive and its use during adolescence may make other forms of problem use or addiction more likely."

Robin Goldstein, Northampton, responded to an earlier comment by confirming he is a shareholder in a cannabis testing lab that has not yet opened. This ordinance would not have any effect on the future testing lab's business because the lab's customers are growers not retailers, so there is no financial conflict of interest if that is what was being suggested. The public health and safety interests of the lab are aligned with the interests that the council and proponents of the ordinance have stated, he assured.

Susan Voss spoke in support of the cap. She doesn't know a single person in her social circle who thinks more cannabis shops are good for them. 12 and the density of them is more than enough. She would really like to see Northampton be known for something other than cannabis shops. They are sending a message to their kids whether they realize it or not that this is a normal thing for them to participate in. When she was on the school committee, they looked at the statistics and she completely agrees that they have changed and they really do not know the answer of how it's changing. She is worried about all the advertisements. She encourages them to do something to move away from the image of the city with all the dispensaries.

Wendy Foxmyn, Leeds, thanked Councilor Jarrett for running a terrific meeting and holding things together very well. She has been very involved with this issue and did a lot of work compiling and sending to the council data on what other cities and towns have done. She agrees with Susan Voss's concern about the image they project as a city as the marijuana capital of Massachusetts. She appreciates the work of Councilors LaBarge, Foster and Maiore in bringing this forward to at least to keep this conversation going and deeply appreciates the work of public health advocates who've spoken up loudly and clearly.

She supports Attorney Fleisher's idea of looking into guidelines for how HCA agreements would be entered into.

Paul Waterman, Ward 4B, said 12 dispensaries in the city seems like a lot. When the ordinance first came out with an unlimited number of dispensaries, he thought business would take care of itself through natural selection and it has. From a practical point of view, 12 is a lot for a city of this size. He urged councilors to support the ordinance limiting it to 12.

At 6:48 p.m., Councilor Jarrett called for a five-minute recess. At 6:53 p.m., the committee reconvened.

Before opening the floor to questions, Councilor Jarrett allowed a final public comment from **Dick Evans of Burts Pit Road**, who experienced technical difficulties earlier.

11,437 Northampton voters said yes to legalization in 2016, **Dick Evans** reminded. These people don't call councilors on the phone late at night, write letters, or speak publicly, but when given the opportunity to go into the privacy of a voting booth in 2016 they did not hesitate to say 'let's bring some reason, common sense and actual evidence to the way we make laws on marijuana.' If there's anything that characterizes this law, it's not common sense and evidence. He drafted a two-page list of comments and questions and implored councilors to consider them. How do you reduce the availability of cannabis to youth by reducing the number of outlets? He asked. He doesn't understand the logic of how reducing the number of outlets reduces the availability to young people since they're not allowed to enter them.

Questions

Sponsors and the city solicitor fielded questions from committee members around specific provisions of the ordinance, such as the mechanism for enforcing the cap and the process for deciding among multiple applicants for limited remaining HCA's.

From a practical standpoint, no cannabis licensee is going to open a 13th shop with a cap on 12 because the shop would be subject to being shut down for being in violation of the ordinance and any investment would be lost, Attorney Seewald suggested. When asked who would shut it down, he acknowledged it would probably require litigation. If there were a cap of twelve, he believes the Mayor would not sign a 13th HCA and the building inspector would not issue a certificate of occupancy for the store. He doesn't share Attorney Fleisher's concern about there not being a specific enforcement mechanism.

Councilor Elkins said she had concerns about the enforceability of an exemption for applicants with a signed lease, and Attorney Seewald confirmed it would be cleaner and neater to tie an exemption to a signed HCA.

Councilor Elkins said she was intrigued by and found persuasive Dr. Goldstein's assertion that, relatively speaking, the number of people who use cannabis remains the same with a cap but what changes is the percentage of product that comes from illegal vs. legal sources. In terms of public safety and health, part of safety is crime reduction and reducing young people's exposure to criminal situations. Anecdotally, she can tell them as a lawyer that the most violent crimes she has seen in Hampshire County come in the form of domestic violence and interactions with illegal drug activity. Specifically, some of the most violent crimes committed by clients she has represented are home invasions by people knocking over their illegal pot dealers. She doesn't see how a cap changes overall cannabis use but she does see that it changes the percentage of cannabis that comes from the illegal market.

In response, Councilor Maiore said her reaction to comments about a possible increase in illegal products is that they're talking about a cap at 12; not two or zero. "I think we're safely past those rocky shores."

"We're not at risk of people not being able to access legal cannabis," Councilor Foster agreed. With 12 dispensaries in a city of 30,000, there will still be sufficient legal access, she confirmed.

Councilor Jarrett asked the city solicitor to address the concern about social equity applicants obtaining a license and selling it to a larger company.

The license a social equity applicant gets is exactly the same as any other license, Attorney Seewald advised. The Cannabis Control Commission (CCC) has, as a matter of policy, not limited the ability of a

social equity applicant to sell that license anytime. When a state policy is promulgated, the ability of a city or town to frustrate that policy is limited. He is concerned that by attempting to limit the ability of a social equity applicant to sell their license, they would be frustrating state policy.

Since the CCC has not limited the ability of social equity applicants to sell their licenses, Councilor Foster acknowledged it is conceivable that a social equity applicant could act as a front for a larger company.

Councilor Jarrett recognized Caroline Johnson for additional comments about public health concerns and why she thought a cap would be effective.

By way of addressing statements that teen cannabis use rates in Northampton have declined over time, Dr. Johnson noted that the past two surveys were conducted during the pandemic when health officials would expect substance use rates to drop and youth hospitalizations to go down. The pandemic limited access in many ways due to pandemic-related closures and quarantines. On the surface rates appear to have gone down over time, but there is actually more nuance to the story. What's interesting to her is that if they compare youth cannabis use rates between Northampton teens and teens in communities with fewer cannabis stores they will see that there is less of a drop in use for Northampton youth. Youth use rates in Northampton are also higher than national averages.

She feels like her role is less in advocating for a particular ordinance or cap and more in informing them of what local data is showing.

Based on her professional experience and her analysis of surveys SPIFFY has done over the years, Councilor Moulton asked if there are other factors that might account for the higher self-reported youth use rate than the number of cannabis retailers in the city.

Dr. Johnson said sure, there are other things to consider without a doubt; arguably, they have different attitudes here than in other areas of the country so there's a possibility that norms have been different here for a long time. But there are shifting norms when they look at youth risk perceptions before legalization and after. They are seeing steady declines in risk perceptions and in perceptions of parental disapproval.

Councilor Nash asked if the data showing that youth use rates have gone down is considered reliable. Are we to look at that as if it is true?

I think we are, Dr. Johnson said.

"We're being asked to enact some pretty serious legislation while the overall numbers are going down," he commented. "For me, it's a hard ask."

Dr. Johnson said she gets that overall numbers have gone down. However, she reminded him of the gap between use among students in districts with five or more cannabis retailers and students in districts with fewer retailers which didn't exist before retailers opened and that Northampton youth cannabis use is still much higher than national averages, particularly when looking at 12th graders.

Dr. Goldstein responded to points raised by Dr. Johnson. He is sure Dr. Johnson is correct that Northampton has higher rates of use than rural communities around Northampton. He thinks that's always been the case. This tends to be the pattern in urban areas. They shouldn't expect consumption rates to be the same

in every county. He has looked at a lot of youth rates during the pandemic, especially in 2020 and early 2021, and all across the west coast and in many other states, use rates actually went up and sales figures were way up. Nationally, use rates and sales rates were up, so Hampshire County was a real exception to that rule and he doesn't think Northampton's decrease was pandemic-related. He thinks they should take that data at face value and not contextualize it as due to the pandemic.

What did go down steadily was risk perception, he confirmed. To him that makes sense because cannabis has gotten safer with legalization, actual risks are lower and people are correctly perceiving that.

Deliberation

After thanking everyone who spoke and thanking sponsors for letting him speak, Councilor Nash said he is aware that cannabis can be addictive, having lost friends to addiction and having many friends in recovery. He also has friends for whom cannabis relieves pain and others who use it for anxiety. For some it makes them psychotic and for others it simply helps them feel good, cope successfully and get through the day. He finds all of these things true for cannabis. His career has been working with youth at different levels of risk from safely living at home without addictions to being out on the street and struggling. If they wanted a councilor who could speak to this issue, he thinks they would want their Ward 3 councilor present.

In 2015, the first medical marijuana dispensary opened. On City Council in 2017/2018, councilors tackled zoning and regulations relative to cannabis in Northampton. In May of 2018, he and Dennis Bidwell introduced a cap they referred to as a 'circuit breaker.' In November of 2018, the first dispensary opened. Between 2018 and 2022, they saw a growth from one to seven dispensaries in his ward. Of the 12 dispensaries in the city, seven are in his ward and the remaining five are a stone's throw from Ward 3.

Marijuana was decriminalized in Northampton in 2012 with 85% of residents voting to decriminalize. In 2015, medical marijuana came to Northampton. In 2018, adult use opened up. Today, they continue to evolve out of prohibition and the underground illegal cannabis economy. Questionable product is still in the community and, as Councilor Elkins mentioned, crime is associated with that activity. Meanwhile, legal cannabis retailers check ID's prior to entry and purchase and monitor comings and goings with cameras. 'Shrink' or disappearing product does not exist. Since the initial opening of NETA in 2018, parking issues have evaporated and there are no reports of crime or strange and disturbing activities.

Before the advent of adult use, people worried what was going to break out in Northampton. What actually broke out when NETA opened was the longest line of polite and patient people he's ever witnessed day after day. There is no evidence of local retailers selling to kids. The transition from prohibition is far from complete. They continue to have illegal marijuana in their community. He is very concerned that what they are doing here is going to constrain or hobble the retailers that have responsibly been bringing cannabis to their city.

This is an industry in transition; it's not complete. Nationally, it is still a criminal offense and still listed as a controlled substance. It still forces their local businesses to run on cash. All of this is in transition.

Once the national issues get figured out, they will see national companies like a Walmart or Walgreens and their local retailers will have to compete with that. He thinks all of the discussion they've been having is about the folks that have been doing it right and doing it legally and doing it really well.

The argument for a cap is eluding him in the face of what is really happening with their retailers. He thinks it's not the right thing to do at this time. He worries that they are taking an industry that's doing right by them and sending a message to them not to come while keeping an underground economy of illegal cannabis going. "I'm not in favor of this," he reiterated.

Councilor Elkins said she thinks to deny health issues around youth use and developing brains is like denying climate change. There's no doubt in her mind as to the harm to developing brains. That being said, she doesn't think this legislation is the answer to that. She sees some negative unintended consequences. In general, she doesn't support a cap. "I think the market is going in the right direction."

She appreciates the effort to think about the social equity issue but is not convinced the legislation in its current form really addresses that. They don't want to lock out social equity candidates from a secondary market but the bigger point is they don't want a secondary market. She attributes a lot of the deterioration to the restaurant industry in town to the cap on liquor licenses and is convinced that a secondary market in general is bad for their community.

"I don't think we should impose on ourselves that which the state has not imposed on us."

She thinks by setting a cap they will 'lock the legal market in amber.' It also locks neighboring towns into their illegal markets. In general, the greater percentage of product coming from the regulated market the better. If cannabis is going to be out there she prefers that the greater percentage of it be regulated.

They have recently seen that the process of the mayor signing HCA's works. The market also seems to be correcting itself, so she doesn't see why they need a cap. She is not inclined to support this. She doesn't think this is the right regulation at the right time.

For him, this is a balancing act on several fronts - a balance between legal vs. illegal cannabis, a balance between the free market and public health and a balance between the cannabis landscape as it presently exists and how it may evolve over the next several years, Councilor Moulton observed. He is not persuaded that by placing a cap of 12 they are reopening the door for more illegal cannabis activity. He believes there will always be illegal activity.

He is generally supportive of the free market argument. They have heard the mayor say that, other than the application for Florence Center last summer, there hasn't been a new application since July of 2021. There is not current evidence that a cap would keep out other businesses potentially eyeing Northampton. The cannabis industry doesn't take into account the potential impact of the free market on the community. That's why as a leader he is looking at how the public health of the community can be addressed.

The industry is so young that there are no longitudinal studies that prove empirically that the density of shops has a long-lasting impact on the choice as a teenager to use or not use. What they have seen and what he finds persuasive is that youth in Northampton living among a larger number of dispensaries are reporting a much higher use rate and, in the case of heavy use, double the rate of use of youth living in communities with fewer dispensaries. That evidence to him is persuasive. He would like to recognize that as a health issue in their community and believes a cap would send the message that they are not going to let this industry grow any further; that they recognize that the norm that has been established by so many dispensaries opening is not a message they want to send.

He doesn't think this is a perfect ordinance but he is comfortable enough with it that he will support it.

The most compelling case for this ordinance to him is the request by their public health professionals, Councilor Jarrett shared. They've observed concerning data. They have talked about the retail density of tobacco and alcohol outlets corresponding with youth use and have advised a pause on future retail cannabis stores. Given that the market looks to be contracting, it likely would not have much effect, he acknowledged.

[It has no effect on social consumption cafés, he noted.]

The precautionary principle, an approach for addressing unknown harms, calls for taking time to gather more data and deciding how to proceed when concerning data is seen.

He appreciates the comments from economists and thinks they're probably correct about economic issues. However, he puts more weight on the [testimony of] public health professionals. If they are not at the top of the market, he can't imagine a retail license would be worth a lot.

He doesn't consider this ordinance to be a prohibition stance but rather the regulation of a legal market. Cannabis is widely available. He thinks there's a lot more that needs to be done to help young people on this issue but it's clear to him that an abstinence-only approach is often not effective. They need to take a harm reduction approach as cannabis is widely available.

What concerns him about the ordinance is that it doesn't actually establish a cap at all. If the market expands in the future, he could see social equity applicants being used to expand it. He would feel comfortable with a neutral recommendation.

Councilor Moulton moved a neutral recommendation. Councilor Jarrett seconded. The motion failed 2:2 with Councilor Moulton and Jarrett in favor and Councilor Elkins and Councilor Nash opposed.

Councilor Jarrett announced that the motion failed.

Members discussed options for proceeding. To resolve the impasse, Councilor Nash said he would be willing to consider voting for a neutral recommendation since his feelings and intention to vote against it upon its return to full council are pretty clear.

Councilor Nash reviewed some of the arguments in support of the cap with his reasons for not embracing them. In particular, the idea that the industry is negatively impacting youth is a real stretch to him with the data they're seeing.

Councilor Nash moved for reconsideration of a neutral recommendation. Councilor Moulton seconded. The motion carried 3:1 with Councilors Jarrett, Moulton and Nash in favor and Councilor Elkins opposed.

The committee recessed for two minutes.

- A. 22.220 An Ordinance Relative to Parking on Hawley Street, referral by City Council pending - 1/5/2023

The ordinance is to expand a 'No Parking' zone near an intersection to accommodate better visibility for vehicles pulling out of Butler Place, Councilor Nash explained.

Councilor Jarrett moved a positive recommendation. Councilor Elkins seconded. The motion passed unanimously 4:0.

B. 22.221 An Ordinance Relative to Stop Signs on Middle Street, High Street and Clement Street, referral by City Council pending - 1/5/2023

The proposed stop signs on Middle Street, High Street and Clement Street went before the Transportation and Parking Commission and met necessary warrants, Councilor Jarrett advised.

Councilor Elkins moved a positive recommendation. Councilor Nash seconded.

A question was raised as to whether City Council approval of stop signs is necessary, Councilor Jarrett noted. As the city's ordinances are currently written, the city solicitor advised him that the process is appropriate, he shared.

The motion passed unanimously 4:0.

5. New Business

None.

6. Adjourn

There being no other business, **Councilor Elkins moved to adjourn. Councilor Moulton seconded. The motion carried 4:0 by roll call vote. The meeting was adjourned at 8:48 p.m.**

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