



DATE: August 29, 2022
TO: Mayor and City Council
FROM: Gary Mekjian, City Manager
SUBJECT: Cannabis Industry Information Gathering & Public Outreach Plan
Phase II: Information Gathering from other Municipalities

Introduction

City Council, working with City staff and the City Attorney, developed the referenced plan that was last finalized on August 9, 2021. There are three phases identified as part of this document which include:

- Phase I: Cannabis Industry Information Gathering
- Phase II: Information Gathering from Other Municipalities
- Phase III: Public Outreach

This report is intended to provide information for Phase II. During this phase, the City Manager's Office (CMO) contacted nine and successfully interviewed eight different municipalities in the State that have opted into issuing licenses for medical and/or recreational adult use under the current state statutes. The communities interviewed were Grand Rapids, Lansing, Berkley, Ferndale, Hazel Park, Walled Lake, Westland, and Centerline. In addition, the CMO contacted the Michigan Municipal League to gather resources, sample ordinances, and issues encountered and experiences (both good and bad) from these communities.

Key points that we were trying to gather include actual fee and tax revenue generated by these communities for opting in, what they anticipate the future holds in this regard, information on local social equity programs, challenges, and administrative demands in managing licenses and applications, and unexpected impacts, both positive and negative.

The following report contains information at a very high level. Appendix A contains detailed information gathered by our conversations with each community.

License Fees, Annual Renewal Fees and Excise Taxes Collected

Each of the communities surveyed charged the statutory maximum of \$5000 for each license application. Vertically integrated operations (i.e., grow, process, retail) that were proposed, were charged for each license.

Each of the communities surveyed charged the statutory maximum of \$5000 for the annual license renewal and inspection, except for Grand Rapids, which considered the initial application fee of \$5000 to cover the first annual renewal and inspection

Appendix A includes the most recent excise tax and fees collected by each of the communities, as reported by the State CRA. The amount of revenue generated was perceived differently across the sample group. While all communities welcomed the additional revenues, many were clear to say that opting into cannabis did not create a cash windfall for the community. Smaller less affluent communities in the survey felt that the revenue generated was very substantial and impactful for their communities.

We asked the communities what they anticipate the future may look like as it relates to the financial sustainability of these facilities and the related revenues generated. Most communities have a finite number of retail licenses (these are the only licenses eligible for the excise tax reimbursement) or limit the number of facilities through zoning and a special use approval.

The latest industry data shows that the amount of cannabis available to consumers is outpacing demand, causing the price for products to decrease. Some of the communities surveyed are seeing evidence of this in the form of a business with approved license delaying their projects. Many communities highly recommend time limits for owners to get their business open within a specific period of time and revocation of the license and/or special use approval if they do not.

Social Equity Programs

Most communities surveyed did not have any social equity aspects in their process, with Grand Rapids being the only exception. Grand Rapids has its own social equity program that has similar goals as the State program. Essentially, applicants made certain commitments to the community as part of this qualification. In exchange, the applicant was given an expedited Planning Commission review. However, what Grand Rapids is discovering is that some of these businesses have not honored their commitments. The City is addressing these issues as part of its annual license renewal process.

Challenges and Administrative Demands

Communities surveyed issued different numbers of licenses, based upon their approach. A common comment was that reviewing applications early on was very time consuming. Most communities received many more applications than available licenses and depending on each community's selection process most applications had to be thoroughly reviewed and scored.

Some communities issued licenses administratively while in other communities the city council approved recommendations for issuance of permits. Many communities commented that it is best, from a legal perspective, to keep the elected officials out of the selection process and limit the number of individuals responsible for communicating with applicants. One thing that was also stressed by a few communities was that it's very important to be very ethical and transparent throughout the entire review and selection process. Do not accept gifts, meals, etc. from any of the applicants.

The application review process varied. Some communities set up a review team consisting of various departments while others relied solely on the City Manager or other designee.

Most communities are suggesting that there be one full time employee charged with the administration of the program once it's implemented. This is time consuming and needs at least one person's full attention. Some communities have offset the cost of the position by utilizing funds collected from the licensing and application fees.

Communities took in applications both digitally and hardcopy. One community strongly suggested that all applications be made digitally. This makes the application easier to route for comments and processing. It also makes it easier to retrieve the information in the event of a lawsuit or FOIA request. Many communities also recommended being very specific on the information required in the application, limiting the size of the submittal, and requiring the information to be organized or arranged in an application template so that each submittal provides the information in the same order. This will ensure that all pertinent information from the applicant will be plainly seen and not hidden in the reams of information that may have been provided.

Do not issue licenses on a first come first served basis. This came from two communities.

Lastly, a few communities commented that they would like to see better communication from the Cannabis Regulator Agency.

Other Questions and Comments

None of the communities have seen an increase in crime because of opting in, nor has there been many complaints from the public regarding odor or parking/traffic issues because of the businesses. However, there have been some traffic and parking issues on 4/20 due to promotions. Also, many communities commented on having provisions for curbside pickup and drive through as this was and remains very popular. One community did make smoking cannabis in public a civil infraction with a \$65 fine.

None of the communities have offered any sort of tax incentive or use of brownfield. There is a common feeling that there is a tremendous amount of cash in this industry, and they should pay for everything.

Many of these communities were sued for various reasons ranging from their selection process to their appeal process. Some have had no legal challenges. It appears that case law from these earlier lawsuits continues to grow, and communities are getting better clarity on how to structure their review and approval processes.

Most of the communities are using cannabis as an economic development tool. Some communities are zoning these businesses into economically depressed areas to revitalize corridors and are seeing increased property values, albeit, likely due to real estate speculation. Centerline claims that its occupancy went from 20% to nearly 100% in its light and heavy

industrial zoning. It appears that the smaller the community, the greater the financial benefit of having these businesses. This is particularly true with Centerline and Hazel Park. However, Walled Lake commented that this is not a cash windfall for their community. It is also not just about the fees and excise taxes being returned to the community. Many of these communities view these businesses as actual job creators that are also of benefit.

Summary

The following are some common themes found across all the communities we surveyed:

- Many communities were sued by the industry for various reasons
- Very labor and time-consuming review process
- The need for one full time staff person to administer the program
- There has not been any increased traffic or parking issues
- No increase in criminal activity
- Increased property values in and around “green zones” although likely temporary
- Increase in general fund revenues
- Some indicators of market saturation, especially for grow operations

I hope you find this information useful and look forward to discussing this issue in greater detail with City Council.

Community Interviews
Appendix A

City of Berkley

Matt Baumgarten, City Manager

Social Equity Programs

No

Revenues, License and Annual Renewal Fees

- 2021 Revenues generated by the State Excise Tax were:
- Charge the statutory maximum of \$5000 for all license applications
- Annual review and inspection: TBD

Challenges and Demands in Managing and Administering License Application, Review, and Issuance

- 31 applications received for 5 licenses (Recreational and Medical Hybrid aka dual permit)
- Reviews were completed by city administration with the use of a matrix.
- License is approved by the City Manager
- They do have an appeal process, hearing before the CM and CA with outside council acting as hearing officer. City Council adopting the CM recommendations
- Application review committee consisted of the CM, Community Development Director, and Public Safety Person plus an admin to take notes
- WERE SUED UNDER THE PRETEXT THAT THEIR REVIEW COMMITTEE WAS A PUBLIC BOARD AND IT VIOLATED OMA. (Has since been superseded by case law)
- Took about 320 manhours to review the applications, and review times varied based on the amount of information provided in the application
- Lots of information provided in the applications, way too much for staff to effectively review
- SUGGESTED THAT THE APPLICATION BE VERY SPECIFIC ON THE AMOUNT AND TYPE OF INFORMATION TO BE SUBMITTED. IN ADDITION, DICTATE THE ORDER IN WHICH THE INFORMATION IS TO BE INCLUDED IN THE APPLICATION
- 3 of the 5 licenses have been issued although at this time, none are open

Other Questions and Comments

- There haven't policing issues yet because the businesses are not open yet
- No real resident push back or complaints
- Applicants scored higher if they proposed to locate their business in specific locations to drive economic development
- Offered more points if their submittal included storm water management, sustainable building materials, constructed green infrastructure and adding pervious pavement
- Also received more points if they redeveloped vacant buildings
- Property values did go up in areas where these businesses were allowed, based on speculation.
- Groups "sat" on properties for months or years prior to licenses being issued. In addition, some license recipients have not executed their projects. Suggests we put an expiration date of for that business in the license
- Odor, traffic, parking not yet an issue. He anticipates 11 Mile Road will experience heavier traffic once they open but will likely die off
- ACCOUNT FOR CURBSIDE PICKUP (MORE PARKING CONCERNS HERE)
- No way to verify seed to sale
- Do not issue licenses on a first come first served basis. They had people standing in line for days, people selling they're position in line, bad behavior, etc.

Centerline

Dennis Champine, City Manager

Social Equity Programs

No programs and there have been no requests from the industry

Revenues, License and Annual Renewal Fees

- 2021 Revenues generated by the State Excise Tax were:
- Major source of GF revenue for the City
- Charge the statutory maximum of \$5000 for all license (they call it a permit) plus a \$1500 application fee, and \$4000 annual renewals
- They have 8 provision/retail licenses that they have issued with 7 more that have been reviewed and approved but not issued
- Part of 2 FT ordinance officers' salaries along with 25% of the City Managers salary are paid for with Cannabis Fees
- Opted into all licenses except Consumption Lounges

Challenges and Demands in Managing and Administering License Application, Review, and Issuance

- His advice is to make small steps
- City Manager is the main person that reviews and nominates applicants to the City Council
- City Council votes to approve the "Permit"
- They utilize 2 FT ordinance officers that are highly trained in the state statutes and local codes for inspections
- Never got more applications than available "permits"
- City Manager is the only reviewer. Plans on turning over to the Economic Development Director soon
- They have had no lawsuits
- 3-6 month review times when they first started but are now down to 30 to 45 days
- They allow businesses to submit for permit even though they are already at max. The application goes onto a waiting list until a permit becomes available

Other Questions and Comments

- There have been very few resident complaints
- Very little policing issues. Did create a civil infraction for smoking in public \$65
- No tax incentives or brownfield.

- Zoning for facilities is M-1 and M-2, light and heavy industry
- Created a Cannabis Overlay District in these areas
- There are minimum separation requirements in these districts
- Big economic development driver for them. Prior to the program, M-1 and M-2 were 20% occupied. Post implementation they are at almost 100%
- \$45 million in investment from these businesses
- Vertically integrated operations are permitted but must be per state statute. (no internal access from one operation to the other)
- No odor complaints emanating from these facilities.
- Traffic issues on 4/20 when businesses had special events and promotions at their stores.
- Grand opening of one of the events created resident complaints for noise.
- Now lawsuits because they did not

Ferndale

Joe Gacioch, City Manager
Roger Caruso, Community Development Director
Kyle Bryce, Planner

Social Equity Programs

No. However, believes that if they were starting over, the current City Council would likely implement some.

Revenues, License and Annual Renewal Fees

5 dual retail licenses (medical and rec.)
1 Recreational retail license
1 Safety Compliance
1 Care Giver

- 2021 Revenues generated by the State Excise Tax were: \$170,000
- Charge the statutory maximum of \$5000 for all license applications and for annual renewals
- Also charge departmental charges for annual inspections from Building and Fire Departments

City Council approves licenses with staff recommendation
Mostly located in general and light industrial zoning

Challenges and Demands in Managing and Administering License Application, Review, and Issuance

- Original license required businesses to be in operation within 9 months of issuance. Proved challenging through COVID. They are allowed a 3 month extension upon City Council approval
- THEY WOULD REVISE REQUIREMENT TO REQUIRE 9 MONTHS FOR BUSINESSES REHABBING EXISTING FACILITIES AND 21 MONTHS FOR BUSINESSES CONSTRUCTING A NEW BUILDING
- Couldn't really comment on staff demand as the staff has turned over and all licenses have been issued. Just maintain those that exist

Other Questions and Comments

- No complaints from residents
- No odor issues but more associated with grow operations

- Do not permit vertically integrated facilities
- CURBSIDE PICKUP IS AN ISSUE. THEY MAY REGULATE THROUGH LOCAL ORDINANCE. THEY DON'T ALLOW DRIVE THROUGHS BY ORDINANCE
- They are concerned about consumption lounges
- No Brownfield or TIF incentives. Not necessary
- The new build retail facility is an improvement to the blighted buildings in the area
- THEY HAVE EXPERIENCED TRAFFIC ISSUES ON LOCAL STREETS, ESPECIALLY DURING 4/20
- No legal challenges to their selection process

Grand Rapids

Al Romero-Gibu, Cannabis Manager

Social Equity Programs

Grand Rapids has its own social equity program that impacts zoning and applicants. Their program has similar goals as the State's program. These were voluntary and they came in the form of commitments to do certain things such as participating in the Good Neighbors Plan.

BY INCLUDING THESE SE ITEMS, THEY WERE GIVEN EXPEDITED PLANNING COMMISSION REVIEW. HOWEVER, THEY'RE FINDING THAT THE BUSINESSES ARE NOT FOLLOWING THROUGH ON THESE COMMITMENTS.

Zoning of these businesses was done by filtering their zoning maps with separation distances from other uses. Retailers must be 2000' apart except in industrial zoning where they can be vertically integrated.

Revenues, License and Annual Renewal Fees

- 2021 Revenues generated by the State Excise Tax were:
- Charge the statutory maximum of \$5000 for all license applications. They also included the 1st year renewal in this too
- \$5000 renewal fee on year 2

Challenges and Demands in Managing and Administering License Application, Review, and Issuance

- Treated as a business licensed issued by the City Clerks office.
- Applicant must get a Conditional Zoning Approval for the location (PC issues this). Then they apply for the State License through the CRA. Once they have their state license, they apply for the local license through the City Clerk's Office. No City Council involvement in license issuance
- Takes 1 FTE to manage the program
- Need strong cohesive team of Planning, Legal, Clerks, and CMO
- Not driving these businesses towards Brownfields
- They've not had any odor issues and waste is regulated by State (for retail)
- They have not had traffic or parking issues but may as not all are opened
- They're local ordinance prohibits drive through but maintained curbside pickup
- Very little coordination between the CRA and local PD
- They believe it is a job creator/economic development driver
- The businesses have beautified areas of town

City of Hazel Park

Ed Klobuchar, City Manager
Amanda Mason, City Attorney

Social Equity Programs

No

Revenues, License and Annual Renewal Fees

- 2021 Revenues generated by the State Excise Tax were: \$340,000 + \$600,000 of annual building inspection revenues
- Charge the statutory maximum of \$5000 for all license applications and for annual renewals
- They welcomed the additional revenues. Hazel Park is a small town that needed additional funding

Challenges and Demands in Managing and Administering License Application, Review, and Issuance

- Hazel Park opted in in 2018. All applications for retail required a dual license (medical and recreational). There were 30 applications for 5 retail licenses.
- Took 3 to 4 months to review applications that included: 4 employees including City Clerk, City Attorney, PD, and ED/Planning
- City Council Approves the license's
- Would recommend 1 FTE to administer the program and work with the businesses

Other Questions and Comments

- No crime or additional burden on police
- They have had odor complaints, but they are rare
- They did see an increase in property values during the initial licensing phase as developers were assembling properties
- They did have traffic issues at one of the retail locations, but the owner is going to pay for the installation of a traffic signal
- They are also experiencing parking issues with the retail locations. Grow and processors not a problem
- No eligibility for Brownfield and other tax incentives. Make them pay for everything.
- Keep the license review process above board. No contact, gifts, meals from the applicants to elected officials and staff and vice-versa. Designated staff only to communicate with the applicant.

Lansing

Jennifer Smith-Zande, Marijuana Licensing and Elections Clerk

Social Equity Programs

They had already issued all their licenses prior to the SE program. They have not done anything with it but if they were to modify, would likely show in the scoring matrix.

Revenues, License and Annual Renewal Fees

- 2021 Revenues generated by the State Excise Tax were: \$900,000
- Charge the statutory maximum of \$5000 for all license applications and for annual renewals
- They started with 25 provisioning licenses and unlimited on all others
- Increased to 28 provisioning/retail once recreational use was legalized

Challenges and Demands in Managing and Administering License Application, Review, and Issuance

- 5 to 7 employees involved in application review
- Clerk, Zoning, PD, Treasurer, Building Safety
- Used a scoring matrix
- **It will require 1 FTE to administer this program**
- Initial applications took a long time to review
- 100 applications for 25 retail licenses
- Renewals take about 2 weeks for staff to review
- New non-retail related licenses take about 30 days for staff to review
- **DO NOT DO PAPER APPLICATIONS, DIGITAL SUBMITTAL ONLY (THEY USED LASERFICHE)**
- **BE VERY SPECIFIC ABOUT WHAT INFORMATION WE WANT FROM THE APPLICANTS. AVOIDS DATA DUMP BY APPLICANTS**

Other Questions and Comments

- Their appeal process utilizes an independent hearing officer that is usually a 3rd year law student that makes recommendation to the Clerk
- **PUT A SUNSET ON THE CONDITIONAL ZONING APPROVALS TO MOTIVATE COMPLETION OF THE PROJECT. ALSO PUT ADMINISTRATIVE PROCESS FOR EXTENDING THIS IS THEY'RE MAKING PROGRESS**
- Markets are saturated and stores are closing
- Property values did go up in industrial zonings where these facilities are permitted (grow operations)

- Odor complaints more prevalent with the home caregivers in town than with the large grow operations
- Police have not really seen an uptick in crime. Mostly issues with illegal, not licensed operators
- Parking and traffic have not been a problem, largely because these facilities are located in old shopping centers

Walled Lake

L. Dennis Whitt, City Manager
Hanna Jaquays, Assistant to the City Manager

Social Equity Programs

No. They opted in prior to any of these programs

Revenues, License and Annual Renewal Fees

- 2021 Revenues generated by the State Excise Tax were: \$170,000
- Charge the statutory maximum of \$5000 for all license applications and for annual renewals
- They have 3 retail licenses

Challenges and Demands in Managing and Administering License Application, Review, and Issuance

- Had tremendous legal challenges to their license selection process as well as from Oakland County Sheriff. Largely because they were one of the first to allow medical provisioning.
- 24 applications for 3 licenses
- Created a Cannabis Bureau. The ACM was the coordinator and 1 police officer
- Took a tremendous amount of time to review the applications

Other Questions and Comments

- Keep the entire process to once contact. Tell elected officials and staff not to accept any gifts, meals, etc from the industry folks. Setting up for a lawsuit
- One of the business owners is considered a good corporate neighbor in that they give back to the community, DDA, etc. The others not so much and really parts of much larger out of state influencers
- CRA does not share their applicant information
- Have received complaints of illegal pot sales at local fueling stations (but no fault of the retail stores)
- They have only really received complaints about people buying the product and then going across the street to a public park where they light up. However, recognized that this is a law enforcement issue not an industry issue
- There can be parking issues
- ACCOUNT FOR CURBSIDE PARKING
- It really didn't increase property values. There was much real estate speculation/options etc.

- Start small
- Have a good understanding of case law that has passed
- No way of verifying seed to sale
- DON'T ISSUE LICENSES ON FIRST COME FIRST SERVE

Westland

Mohamed Ayoub, Planning Director

Social Equity Programs

No.

Revenues, License and Annual Renewal Fees

- 2021 Revenues generated by the State Excise Tax were: \$
- Charge the statutory maximum of \$5000 for all license applications and for annual renewals
- They have 8 total licenses: 2 retail (dual license), 3 co-located in industrial, 1 micro business, 1 secure transport, 1 safety compliance. They are discussing consumption lounges

Challenges and Demands in Managing and Administering License Application, Review, and Issuance

- They did get sued. “Expect to get sued”
- Selection committee consisted of Planning, Police and Fire Chiefs, and Legal
- Allowed both digital and paper submittals
- Do not allow emailed submittals
- Used a scoring rubric
- Had a Cannabis Review Board to hear appeals. Made up of 2 residents appointed by the City Council and Procurement Director
- Tied scores went to a lottery draw
- Review took about 1 year

Other Questions and Comments

- No resident complaints
- No increase in crime
- No traffic or parking issues
- Require more parking than normal for retail sites
- The industry is not as lucrative as once thought
- No tax incentives or use of Brownfield monies
- They were trying to attract these businesses into industrial and commercial areas of town
- “If you’re going to allow grow operations, it makes sense to opt into the retail license in order to get the state excise tax revenues”

- Co-located or “vertically integrated” operation was only allowed in the industrial zoning and had to be a new build
- They believe this is a strong economic development driver
- Striving for stores that have modern architecture, LEED Certified
- Zoning approach is similar to Grand Rapids
- Property values are increasing in these areas

- allow City Council to review and approve the applicants
- Review based on the 9 primary points of the state statute
- Really review other community's workflow for applications, how and what they review and how licenses are issued
- No sense of saturation in the market
- Rules require specific build outs. It has cleaned up the areas. They require 8' tall decorative fences around the entire perimeter of property. Very secure. The close at 9 pm.