

LEGISLATIVE REVIEW COMMITTEE

Thursday, February 3, 2022

Committee Members Present:

Commissioner Russell Edwards, Chair

Commissioner Jesse Houle

Commissioner Carol Myers

Commissioner Ovita Thornton **Left meeting at 1:36 p.m.*

Committee Members Absent:

Commissioner Allison Wright

Staff:

Niki Jones, Assistant Manager

Sherrie Hines, Chief Assistant Attorney

Lisa Pappas, Assistant Attorney

Andrew Saunders, Central Services

Gavin Hassemer, Central Services

Angel Helmly, Central Services

Chief Cleveland Spruill, Police Department

Lt. Phil Basinger, Police Department

Sarah George, Recorder

Commissioner Edwards called the meeting to order at 1:01 p.m.

A. Approval of Minutes:

Commissioner Myers made a motion to approve the January 20, 2022 minutes. Commissioner Houle seconded. The motion passed unanimously.

Commission Identified Items of Interest:

- B. Review and make recommendations regarding current alcohol serving opportunities for Special Events on public properties and public rights-of-way (both free public activities and ticketed events), including flexibility regarding shape and size requirements of drinking areas, food service requirements, furniture requirements, and consideration of the ratio of police officers required per physical size or occupancy, as well as review of areas managed by Leisure Services that may be available for Special Events that serve alcohol. (Mayor Girtz assigned to LRC on February 4, 2020)

Andrew Saunders reviewed the proposed changes to the special events ordinance in regards to how beer and wine can be incorporated into special events. He explained staff has also taken the opportunity to reorganize the ordinance. He noted that the purpose was updated to remove the language about it being a pilot period and updated the authorized areas section to reference it would apply to any special event that results in the closure of at least one city block. Throughout the special events ordinance, references to “special outdoor café areas” have been modified to be called “beer gardens”.

Commissioner Edwards noted that the “beer and/or wine” in the authorized areas section could be modified to say “beer and wine” to sound a little more clear.

Andrew Saunders also noted that the special events ordinance, where this ordinance section would be contained, requires 60 days advance notice to have a special event; however, it provides discretion for the Manager to waive that 60 day period in the case of an emergency review. This has been used from time to time, and staff tries to permit special events when possible. Staff does not believe that we can incorporate alcohol into a special event in a safe and

well-planned manner with a limited time period; therefore, language has been added to reflect that beer and wine would not be permitted if the event is seeking an emergency review.

He also shared that the ordinance previously required that every beer garden have a minimum of one security officer at an entry and exit point, and this was also a requirement for festival zones. Language was added to restate that additional security officers may be required as needed to provide for the safety and security of the event. Staff has also added language to make it clear that the event is still responsible for managing the entry and exit points. Police will be there for security and to ensure no one is violating the law; however, the event is responsible for checking IDs prior to dispensing alcohol. Staff recommends requiring event staff or volunteers at each entry or exit point in order to help educate event patrons as to where the festival zone begins and ends.

Andrew Saunders also explained that the existing ordinance for the pilot program had some language about requiring identified cups; the intent was to minimize people bringing in beverages, like hard liquor or beer, from outside the event. Upon implementation, this has not proven to be a deterrent and was not helping an application. Rather, staff believes the more important item as it relates to festival zones was the wrist bands, as they allow the Police and others to know that age has been verified by somebody affiliated with the events. Staff has consolidated that in the proposed changes and required that containers be reusable or recyclable. Glass is also prohibited and the container cannot be more than 24 ounces.

Commissioner Edwards recommended modifying language in section 7 under general requirements to say “permit holders must provide food service within areas permitted for alcohol consumption” in order to be more clear. Commissioner Houle also requested that section 8 under general requirements to be modified to say containers “shall be reusable, recyclable, or compostable”.

Andrew Saunders noted that one of the lessons learned during the pilot program was that there was a need to do some early work. Staff recommends having permit holders provide, prior to being issued a permit, draft copies of their proposed signage they plan to use along the festival zones and educational materials that will be shared with event patrons at locations where festival zone wrist bands are issued. Additionally, staff would also like to understand what the event’s plan is to engage with businesses within a one block radius of a festival zone. Commissioner Edwards recommended modifying this section to make the language more direct and concise.

The proposed changes also include new language to denote parades or marches cannot depart a festival zone and a section on violations with penalties for permit holders that are convicted of an ordinance violation. In addition to whatever penalty the Judge sentences, the permit holder would not be able to incorporate alcohol into their event for 13 months. There are increased durations of suspension for subsequent violations. Andrew Saunders noted that this section is intended to be targeted at the behavior of the permit holder rather than the participants. Staff intends to be applied with discretion, and there is a judicial process associated with it.

Commissioner Houle expressed interest in extending the five-year period longer. Commissioner Thornton explained that she was amenable to having a longer period of suspension. Commissioner Edwards suggested modifying the third violation to having a seven-year suspension for “third and subsequent violations”. Commissioner Houle agreed.

Commissioner Thornton inquired as to whether or not the violations would be wiped clear if vendors or ownership changes. Andrew Saunders explained that the intent is that it would apply

to event sponsors or event to avoid events from violating it and then simply changing the event sponsor. Commissioner Edwards recommended modifying “event sponsor” to “permit holder”. Commissioner Thornton inquired as to whether or not it would be possible to have a grievance process for events that have a transfer of sponsorship after the violations have been made. Commissioner Edwards inquired as to whether or not the appeal could be made in Municipal Court. Sherrie Hines explained that they typically allow appeals for alleged due process violations to the Administrative Hearing Officer; she believes that would be authorized here as well, but if it is not, they can add that language.

Niki Jones explained that, if the Committee was comfortable, staff could send the updated ordinance to reflect the requested changes from this meeting to the Committee later in the week. He noted that there was a tight timeline to get the ordinance changes in effect prior to St. Patrick’s Day.

Commissioner Thornton made a motion to move the ordinance out of Committee to the full Mayor and Commission and have staff provide the Committee a copy incorporating the changes requested. Commissioner Myers seconded the motion. The motion passed unanimously.

C. **Examine marijuana penalty options that could be embedded in local ordinance as an alternative to state charges. (Mayor Girtz assigned to LRC on February 1, 2022)**

Niki Jones explained the new charge from the Mayor regarding examination of marijuana penalty options.

Commissioner Edwards requested staff provide information on what other municipalities in Georgia have done in some sort of recent modification to simple possession charges in local ordinance. He explained that Clarkston has passed a decriminalization measure, and Chamblee may have as well. Commissioner Houle offered to share a zip file with information from Atlanta, Augusta, Chamblee, Chatham County, Doraville, and Fairburn, among others.

Commissioner Myers inquired as to whether or not there was a common theme of them being limited to 1 ounce or fewer. Commissioner Houle explained that they would need to review it more. Commissioner Edwards explained that, from his knowledge, they were generally focused on possession of small quantities and asked that Commissioner Houle share those examples with Assistant Manager Niki Jones.

Commissioner Houle explained that they hoped that the Committee could put forth a decriminalization of the largest quantity possible with the lowest fine possible. Commissioner Myers explained that she would like to see what the choices are and expressed interest in hearing from the Police Department as well.

Commissioner Edwards asked Chief Spruill if he would like to share anything as the Committee begins to discuss. Chief Spruill explained that he believes it would be important to examine where we currently are and what is currently being done. He explained that, a few years ago, they implemented a pre-arrest diversion program that included the ability to divert simple possession charges away from prosecution. They also have a standing direction to their employees, after the changes in hemp laws in 2019, where they have basically been directed not to charge for simple possession of marijuana unless there is an accompanying higher level or more serious charge. Since January 2020, the Police Department has only made 27 charges for simple possession of marijuana in total. Of those charges, 26 of the 27 charges were cases where the individual had another higher level charge. He shared that the Police Department is averaging about one possession of marijuana per month. Chief Spruill also noted that it is also

important to have a clear understanding how we define decriminalization. Does this mean we are not going to arrest? Does this mean a diversion opportunity is going to be built into the arrest?

Commissioner Edwards requested staff provide data from the Police Department on arrests, how simple possession is currently being charged, and how diversion is operating. Commissioner Myers inquired about the quantity of marijuana involved in the 26 of the 27 cases Chief Spruill referenced. Chief Spruill explained that he could get an exact breakdown of the accompanying higher level offense that resulted in the arrest. He explained that the marijuana charge for simple possession was for quantities less than an ounce. Commissioner Myers inquired as to whether or not the simple possession of marijuana would affect the case and if there would be more penalties associated with the case because of it. Commissioner Edwards explained that information from staff on how these simple possession charges was playing out in the courts would be helpful.

Commissioner Houle shared that the pre-arrest diversion program has had limited use to date, and there are many people who are ineligible to even participate in the program. If individuals are second offenders, they are disqualified from participating. They also noted that the program is fairly onerous. Commissioner Houle also clarified that this is not just relevant to Athens-Clarke County Police Department; this would apply to the whole jurisdiction, including arresting agencies that the Commission does not have authority over, like the UGA Police Department. Additionally, Commissioner Houle explained that they believe a fine akin to a traffic ticket would be a good way to think about this. While they cannot legalize marijuana on a local level, they believe they should do everything they can to make it as negligible a factor in people's lives as possible. Lastly, Commissioner Houle requested Chair Edwards invite the Public Defender's office to send a representative to the next meeting. They believe they could do a lot to convey to the Committee the value of taking this action and share ideas for optimal implementation. Commissioner Edwards agreed and also asked that a representative from the Solicitor's Office be invited as well. Lisa Pappas explained that also inviting a representative from the District Attorney's Office may also be helpful, given the arrests have greater charges attached to them. Commissioner Edwards agreed.

D. Schedule/Agenda Changes

The next LRC meeting is scheduled for March 3, 2022 at 1:00 p.m. and will be held remotely via WebEx.

Commissioner Myers made a motion to adjourn. Commissioner Houle seconded the motion. The motion passed by unanimous vote. The meeting adjourned at 1:58 p.m.