



SPECIAL OTTAWA CITY COUNCIL

Thursday, 13 December 2018

Andrew Haydon Hall, 110 Laurier Avenue W.

MINUTES 3

Note: Please note that the Minutes are to be considered DRAFT until confirmed by Council.

The Council of the City of Ottawa met at Andrew S. Haydon Hall, 110 Laurier Avenue West, Ottawa, on Thursday, 13 December 2018 beginning at 10:00 a.m.

The Mayor, Jim Watson, presided and led Council in a moment of silence.

ROLL CALL

All Members were present at the meeting.

DECLARATIONS OF INTEREST INCLUDING THOSE ORIGINALLY ARISING FROM PRIOR MEETINGS

No declarations of interest were filed.

COMMUNICATIONS

The following communications were received:

Association of Municipalities of Ontario (AMO).

- Information for Councils – Developing a Municipal Cannabis Policy Statement

REGRETS

No regrets filed to date.

MOTION TO INTRODUCE REPORTS

MOTION N^o 3/1

Moved by Councillor S. Blais

Seconded by Councillor T. Nussbaum

That the report from the General Manager, Emergency and Protective Services entitled “Report on Ontario Cannabis Legislation, Cannabis Retail Stores, and Response to Council Direction of August 29, 2018” be received and considered.

CARRIED

RESOLVING INTO COMMITTEE OF THE WHOLE

MOTION N^o 3/2

Moved by Councillor S. Blais

Seconded by Councillor T. Nussbaum

That City Council resolve to move into Committee of the Whole pursuant to Section 52 of the *Procedure By-law*.

CARRIED

REPORTS

GENERAL MANAGER, EMERGENCY AND PROTECTIVE SERVICES

- | |
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| <p>1. REPORT ON ONTARIO CANNABIS LEGISLATION, CANNABIS RETAIL STORES, AND RESPONSE TO COUNCIL DIRECTION OF AUGUST 29, 2018</p> |
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Tabled at the City Council meeting of December 5, 2018.

REPORT RECOMMENDATIONS – DECEMBER 13, 2018

2. **That, at the December 13, 2018 Special Meeting, Council, sitting as Committee of the Whole:**
- a. **Receive the information in this report in response to Council's August 29, 2018 directions to staff, including:**
 - i. **An update on the *Cannabis Licence Act, 2018*, changes to the *Cannabis Control Act, 2017*, and associated legislation and regulations, including the analysis of the powers the City has under the current *Planning Act* to zone cannabis store location;**
 - ii. **A high-level summary of the feedback provided to the Province on Ontario's cannabis retail model, as well as the outreach to the Provincial Government, the Association of Municipalities of Ontario, Ottawa Public Health, and the City of Toronto;**
 - iii. **An outline of the work to date of the City's Integrated Cannabis Legalization Steering Committee;**

analogous to a school, such as recreational facilities, community centres, libraries and public parks;

- ii. the City's opposition where the site is in an area where retail uses are not listed as principal uses, and where the site is located within a Local Commercial (LC) zone so as to prevent establishment of cannabis stores in inappropriate zones,**
 - iii. that the Province have regard for concerns expressed by health and/or treatment service providers to the AGCO (including operators of shelters, group homes, addiction counselling or other independently managed health service) where the location of a cannabis retail store is within 150m of their establishment,**
 - iv. comments on any other relevant factors of local importance including any opposition expressed by the Ward Councillor to be noted to the AGCO, and**
 - v. That the City's responses to the AGCO be posted to Ottawa.ca for accountability and transparency.**
- d. Direct staff to measure the impact of the legalization of cannabis on City services, and report back to the appropriate Standing Committee prior to Council's consideration of the 2020 Draft Operating and Capital Budgets.**
- e. Delegate the authority to the Mayor to advocate with the Ontario government for greater municipal planning authority over private cannabis retail stores, including but not limited to the right to increase separation distances between such establishments, as described in this report.**

Anthony DiMonte, General Manager of Emergency and Protective Services, delivered a slide presentation, a copy of which is held on file with the City Clerk.

The following delegations addressed the Committee of the Whole with respect to the staff report and Council's decision on whether to permit private cannabis retail stores in the City of Ottawa. Those persons whose names are marked with an asterisk (*) have also provided a written submission, and these documents are held on file with the City Clerk.

- Jerry Kovacs, expressing concern with the approach outlined in the report, and recommending Council not make a decision prior to January 22, and opt in by default.
- Chris Greenshields, Vanier Community Association, in favour of permitting private cannabis retail stores in the City Ottawa.*
- Mark Asfar and Megan Cornell, Momentum Business Law, recommending Council permit private cannabis retail stores in the City Ottawa.*
- Sean Webster, Canopy Growth, recommending Council permit private cannabis retail stores in the City Ottawa.
- Angelo Muscari and Dr. Rahim Dhalla, Hybrid Pharm medical cannabis pharmacy, recommending Council permit private cannabis retail stores in the City Ottawa, ensuring medial dispensaries and patients are considered.
- Nathan Mison, Fire & Flower cannabis retailer, recommending Council permit private cannabis retail stores in the City Ottawa*.
- Christine Leadman, Bank St. Business Improvement Area, on behalf of the Ottawa Council of Business Improvement Areas (OCOBIA) in favour of permitting private cannabis retail stores in the City Ottawa.
- Sherry Morrison, in favour of permitting private cannabis retail stores in the City Ottawa
- Cara Rose-Brown, Spiritleaf cannabis dispensary owner, in favour of permitting private cannabis retail stores in the City Ottawa.
- Richard Bergman, expressing concerns with permitting private cannabis retail stores in the City of Ottawa, recommending opting out.

Council also received written correspondence from Maria Luisa Marti, Friends of James and Bay, which is held on file with the City Clerk.

MOTION N^o 3/3

Moved by Councillor G. Darouze

Seconded by Councillor L. Dudas

THEREFORE BE IT RESOLVED that Committee of the Whole recommend that Council approve:

1. That Recommendation 2, paragraph c, item i, sub-item 2, of the report be amended add the words “150m of”, which were inadvertently omitted, immediately after the word “Within”, as follows:

2. Within 150m of any identified publicly owned and or operated community facility performing a public assembly function analogous to a school, such as recreational facilities, community centres, libraries and public parks;

CARRIED

MOTION N^o 3/4

Moved by Councillor C. Meehan

Seconded by Councillor R. Chiarelli

WHEREAS the Province of Ontario has created a legislative framework, being the *Cannabis Licence Act, 2018*, that will allow recreational cannabis to be sold in private cannabis retail stores in Ontario beginning April 1, 2019; and

WHEREAS that Province’s legislative framework does not provide municipalities with the authority to determine the location of stores, nor does it provide the authority to determine the distance between two or more private cannabis retail stores; and

WHEREAS Section 41 of the *Cannabis Licence Act, 2018* provides that municipal councils may pass a resolution no later than January 22, 2019, to opt-out of having private cannabis retail stores within their municipal borders; and

WHEREAS by opting out of the Province’s private cannabis retail stores program now, the City retains its right to opt-in at some point in the future; and

WHEREAS by opting out of the Province’s private cannabis retail stores program now, the City of Ottawa can observe and evaluate how “opting-in” works in other municipalities before deciding to allow private cannabis retail stores within its municipal borders;

THEREFORE BE IT RESOLVED that Committee of the Whole recommend to Council that the City of Ottawa opt-out of hosting private cannabis retail stores in accordance with Subsection 41(1) of the *Cannabis Licence Act, 2018*; and

BE IT FURTHER RESOLVED that Council direct the City Clerk and Solicitor to convey its decision to opt-out to the Alcohol and Gaming Commission of Ontario in accordance with the *Cannabis Licence Act, 2018*, and notify Council once the Alcohol and Gaming Commission of Ontario confirms it has received the City of Ottawa’s status as an “opt-out” municipality for cannabis retail storefronts.

LOST, on a division of 2 YEAS to 22 NAYS, as follows:

YEAS (2): Councillors R. Chiarelli, C. Meehan

NAYS (22): Councillors A. Hubley, C. McKenney, S. Moffatt, G. Darouze, R. Brockington, S. Blais, E. El-Chantiry, L. Dudas, J. Leiper, T. Tierney, J. Harder, T. Nussbaum, S. Menard, G. Gower, D. Deans, M. Fleury, J. Sudds, M. Luloff, T. Kavanagh, K. Egli, J. Cloutier, Mayor J. Watson

MOTION N^o 3/5

Moved by Councillor M. Fleury

Seconded by Mayor J. Watson

WHEREAS the Province of Ontario has enacted the *Cannabis Licence Act, 2018*, to establish a regulatory regime for private cannabis retail stores beginning on April 1, 2019, with the Alcohol and Gaming Commission (AGCO) being solely responsible for issuing licenses and authorizations in respect of the private cannabis retail stores, including approval of a store location within a municipality, and,

WHEREAS, pursuant to subsections 42 (1) and (2) of the *Cannabis Licence Act, 2018*, municipal councils are prohibited from, and have no authority to:

- (1) regulate private cannabis retail stores by means of business licensing

by-laws under the *Municipal Act, 2001*, or

(2) establish specific zoning or land uses for private cannabis stores under Sections 34, 38 or 41 of the *Planning Act*; and,

WHEREAS the lack of authority for municipalities to regulate or to zone in respect of private cannabis retail stores does not align with the otherwise broad scope of powers provided to municipalities under the *Municipal Act, 2001* to govern their affairs as they consider appropriate and to respond to municipal issues (Section 8), and does not align with existing municipal authorities to pass by-laws for the economic, social and environmental well-being of the municipality, for the health safety and well-being of persons, for the protection of persons and property including consumer protection, and for business licensing, generally (Subsection 10(2)); and,

WHEREAS the lack of authority for municipalities to license private retail stores also does not align with the broad business licensing powers for other businesses and trades that are granted to municipalities under Part IV of the Act, and specifically the powers to restrict certain businesses such as adult entertainment parlours and payday loan establishments to certain areas of the City, and to limit their numbers within those areas; and

WHEREAS the City of Ottawa deems it important that City Council have authority to pass by-laws to regulate private cannabis retail stores located within its borders, including the powers to impose requirements and standards on such stores, to license them, to approve their location, and to impose a maximum limit for stores within the municipality in order to ensure public health and safety, consumer protection, compliance with the City's Official Plan, Zoning By-law and other local land use planning policies, and to ensure economic diversity of retail along City streets;

THEREFORE BE IT RESOLVED that Recommendation 2e be amended to read as follows:

Delegate the authority to the Mayor to advocate with the Ontario government for greater municipal planning authority over private cannabis retail stores, including but not limited to the right to increase separation distances between such establishments, as described in this report and to provide municipalities with specific authority to regulate and license private cannabis retail stores
by:

1. **Repealing Section 42 of the *Cannabis Licence Act, 2018*;**
2. **Amending Part IV of the *Municipal Act, 2001*, to allow a local municipality to:**
 - a. **Provide for a system of licenses for private cannabis retail stores under Section 151,**
 - b. **Define the area of the City in which private cannabis retail stores are permitted to operate, and limit their number in any defined area in which they are permitted;**
 - c. **Establish minimum separation distances between private cannabis retail stores as well as from other land uses; and,**
3. **Allowing a municipality to establish specific land use controls for private cannabis retail stores under Sections 34, 38 or 41 of the *Planning Act*, including zones and new uses for such stores; and**

Delegate the authority to the Mayor to ask the Alcohol and Gaming Commission of Ontario (AGCO) to improve its public notification process such that the City of Ottawa is proactively informed of applications within its jurisdiction at the same time those applications go live on the AGCO website.

CARRIED, on a division of 24 YEAS to 0 NAYS, as follows:

YEAS (24): Councillors A. Hubley, C. McKenney, S. Moffatt, G. Darouze, R. Brockington, S. Blais, E. El-Chantiry, L. Dudas, J. Leiper, T. Tierney, J. Harder, T. Nussbaum, S. Menard, G. Gower, D. Deans, R. Chiarelli, M. Fleury, C. Meehan, J. Suds, M. Luloff, T. Kavanagh, K. Egli, J. Cloutier, Mayor J. Watson

NAYS (0):

MOTION N^o 3/6

Moved by Councillor M. Fleury
Seconded by Mayor J. Watson

WHEREAS the report indicates that staff will be bringing forward amendments to the smoking-related by-laws early in 2019;

THEREFORE BE IT RESOLVED that staff be directed, as part of its review of the City's smoking-related by-laws, to seek to harmonize those regulations to include cannabis and vaping in accordance with applicable authorities in the *Smoke Free Ontario Act, 2017* and the *Municipal Act, 2001*, including:

1. A review of the following by-laws, as amended: the Public Places By-law (2001-148), the Workplaces By-law (2001-149), the Parks and Facilities By-law (2004-276), the Parkdale Market By-law (2009-448), the ByWard Market By-law (2008-449), the Waterpipes in Public Places By-law (2016-303), the ROW Patio By-law (2017-92), the Transit By-law (2007-268) and any other by-law containing smoke-free regulations;
2. Consultations with Ottawa Public Health and other affected City departments, as well as public consultations; and
3. Any recommendations for other amendments to the smoke-free regulations, as an outcome of those consultations, if any.

CARRIED

MOTION N^o 3/7

Moved by Councillor T. Kavanagh
Seconded by Councillor J. Harder

WHEREAS the Planning Department will be conducting a city-initiated by-law amendment in 2019 to bring the Zoning By-law into conformity with the federal regulation *Cannabis Act* and associated regulations concerning Cannabis Production, Cultivation and Processing; and

WHEREAS Staff will consider the extent to which Cannabis Production, Cultivation or Processing occurring under a Standard License or Micro-License may be permitted and regulated through the Zoning By-law, and in what geographic locations in the urban and rural areas of the City these activities may occur; and

WHEREAS the *Cannabis License Act* provides opportunity for a producer to apply for a single Cannabis Retail Store license coincident with a production facility; and

WHEREAS the *Cannabis License Act* and associated Regulations permit a Cannabis Retail Store to occur in any land-use context in which a retail store that does not sell Cannabis may occur, subject to the Provincial Regulations;

BE IT RESOLVED THAT the Planning Department consider the extent to which Cannabis Retail Stores may occur in an industrial and employment context when considering opportunities for Cannabis Production, Cultivation and Processing in the forthcoming study.

CARRIED

Council in Committee of the Whole CARRIED the report recommendations, as amended in Committee by Motions 3/3, 3/5, 3/6 and 3/7, and as set out in full below:

- 2. That, at the December 13, 2018 Special Meeting, Council, sitting as Committee of the Whole:**
 - a. Receive the information in this report in response to Council's August 29, 2018 directions to staff, including:**
 - i. An update on the *Cannabis Licence Act, 2018*, changes to the *Cannabis Control Act, 2017*, and associated legislation and regulations, including the analysis of the powers the City has under the current *Planning Act* to zone cannabis store location;**
 - ii. A high-level summary of the feedback provided to the Province on Ontario's cannabis retail model, as well as the outreach to the Provincial Government, the Association of Municipalities of Ontario, Ottawa Public Health, and the City of Toronto;**
 - iii. An outline of the work to date of the City's Integrated Cannabis Legalization Steering Committee;**
 - iv. An analysis of the implications of the proposed "opt-out" option for cannabis retail stores within the City of Ottawa, including staff's recommendation in favour of permitting cannabis retail stores in Ottawa, due to the implications of opting out with respect to crime consequences, economic development opportunities, public health, proximity to other jurisdictions and provincial cannabis funding for municipalities; and**
 - v. The results of the Ekos Research Associates survey and the on-line feedback tool used to gather public opinion to inform this report.**

- b. Direct the City Clerk and Solicitor to notify the Alcohol and Gaming Commission of Ontario (AGCO) that the City of Ottawa will permit private cannabis retail stores; and**
- c. Delegate authority to the General Manager of Planning, Infrastructure and Economic Development (PIED) to develop a process and identify the staff and technical resources required to submit the City of Ottawa's formal response, with the concurrence of the Ward Councillor, to a cannabis retail site application to the AGCO, as described in this report, and including in the response:**
 - i. the City's opposition for those proposed retail sites where a site is:**
 - 1. Within 150 m of another cannabis retail store, so as to prevent undue clustering and concentration of such stores in one area;**
 - 2. Within 150 m of any identified publicly owned and/or operated community facility performing a public assembly function analogous to a school, such as recreational facilities, community centres, libraries and public parks;**
 - ii. the City's opposition where the site is in an area where retail uses are not listed as principal uses, and where the site is located within a Local Commercial (LC) zone so as to prevent establishment of cannabis stores in inappropriate zones,**
 - iii. that the Province have regard for concerns expressed by health and/or treatment service providers to the AGCO (including operators of shelters, group homes, addiction counselling or other independently managed health service) where the location of a cannabis retail store is within 150m of their establishment,**
 - iv. comments on any other relevant factors of local importance including any opposition expressed by the Ward Councillor to be noted to the AGCO, and**

- v. That the City's responses to the AGCO be posted to Ottawa.ca for accountability and transparency.
 - d. Direct staff to measure the impact of the legalization of cannabis on City services, and report back to the appropriate Standing Committee prior to Council's consideration of the 2020 Draft Operating and Capital Budgets.
 - e. Delegate the authority to the Mayor to advocate with the Ontario government for greater municipal planning authority over private cannabis retail stores, including but not limited to the right to increase separation distances between such establishments, as described in this report and to provide municipalities with specific authority to regulate and license private cannabis retail stores by:
 - 1. Repealing Section 42 of the Cannabis Licence Act, 2018;
 - 2. Amending Part IV of the Municipal Act, 2001, to allow a local municipality to:
 - a. Provide for a system of licenses for private cannabis retail stores under Section 151,
 - b. Define the area of the City in which private cannabis retail stores are permitted to operate, and limit their number in any defined area in which they are permitted;
 - c. Establish minimum separation distances between private cannabis retail stores as well as from other land uses; and,
 - 3. Allowing a municipality to establish specific land use controls for private cannabis retail stores under Sections 34, 38 or 41 of the Planning Act, including zones and new uses for such stores; and
Delegate the authority to the Mayor to ask the Alcohol and Gaming Commission of Ontario (AGCO) to improve its public notification process such that the City of Ottawa is proactively informed of applications within its jurisdiction at the same time those applications go live on the AGCO website.
- 3. That staff be directed, as part of its review of the City's smoking-related

by-laws, to seek to harmonize those regulations to include cannabis and vaping in accordance with applicable authorities in the *Smoke Free Ontario Act, 2017* and the *Municipal Act, 2001*, including:

1. **A review of the following by-laws, as amended: the Public Places By-law (2001-148), the Workplaces By-law (2001-149), the Parks and Facilities By-law (2004-276), the Parkdale Market By-law (2009-448), the ByWard Market By-law (2008-449), the Waterpipes in Public Places By-law (2016-303), the ROW Patio By-law (2017-92), the Transit By-law (2007-268) and any other by-law containing smoke-free regulations;**
2. **Consultations with Ottawa Public Health and other affected City departments, as well as public consultations; and**
3. **Any recommendations for other amendments to the smoke-free regulations, as an outcome of those consultations, if any.**
4. **That the Planning Department consider the extent to which Cannabis Retail Stores may occur in an industrial and employment context when considering opportunities for Cannabis Production, Cultivation and Processing in the forthcoming study.**

DIRECTION TO STAFF

That the City Clerk and Solicitor's Office be directed to provide the Alcohol and Gaming Commission of Ontario with all of the documentation associated with today's Council meeting, including information and submissions received from public delegations, the staff report, and the motions and recommendations from City Staff and Council.

MOTION TO RISE AND REPORT

MOTION N^o 3/8

Moved by Councillor S. Blais

Seconded by Councillor T. Nussbaum

That the Committee of the Whole rise and report to City Council.

CARRIED

Upon rising from Committee of the Whole, Council CARRIED the report recommendations, as amended in Committee of the Whole.

MOTION TO ADOPT REPORTS

MOTION N^o 3/9

Moved by Councillor S. Blais

Seconded by Councillor T. Nussbaum

That the report from the General Manager, Emergency and Protective Services entitled “Report on Ontario Cannabis Legislation, Cannabis Retail Stores, and Response to Council Direction of August 29, 2018” be received and adopted as amended in the Committee of the Whole; and

That any dissents and declarations of interest recorded during the Committee of the Whole session be deemed to be recorded in the Council session.

CARRIED

CONFIRMATION BY-LAW

MOTION N° 3/10

Moved by Councillor S. Blais

Seconded by Councillor T. Nussbaum

That the following by-law be read and passed:

To confirm the proceedings of the Council meeting of December 13, 2018.

ADJOURNMENT

Council adjourned the meeting at 2:46 p.m.

CITY CLERK

MAYOR