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Council Weighs Re-Criminalization of Marijuana in East Lansing ^[1]

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By:

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Above, from left: Council members Ruth Beier and Aaron Stephens, City Attorney Tom Yeadon.

After major moves by local voters ^[2] and by City Council ^[3] to decriminalize marijuana in East Lansing, Council discussed at its most recent meeting whether to change East Lansing's laws to again make public use of marijuana a misdemeanor ? a criminal offense ? in some cases.

The Mayor said he brought this idea forward at the request of unnamed bar owners, and the City Attorney said it might deter certain forms of protest at Council. But not all on Council thought it was a good idea, and for now, the matter has been tabled.

At the June 18 meeting, Council discussed draft Ordinance 1461 [4], which, if it were passed, would make it a misdemeanor to use marijuana in bars and restaurants that serve alcohol and in publicly-owned buildings where the public is regularly allowed.

City Attorney Tom Yeadon presented the proposed ordinance at the same meeting where a 3-2 majority of City Council awarded him a new three-year contract with a 25 percent raise [5].

Yeadon said his understanding was that ?Council? had asked for an ordinance like this, following concerns from local bar owners that it is only a civil infraction while bar owners face stiff penalties for liquor license violations if someone uses marijuana in their establishments.

Yeadon said he himself had added the criminalization of smoking in public buildings to avoid something like someone smoking pot in Council Chambers as a form of protest.

?That?s what this ordinance does, it makes it a misdemeanor for certain places,? Yeadon said.

The misdemeanor punishment in the draft ordinance is specified as a fine of not more than \$100, up to 90 days in jail or of community service, and/or substance abuse screening and treatment. (At the meeting, Yeadon incorrectly said the ordinance he drafted calls for up to a \$500 fine.)

Council member Aaron Stephens asked how the new ordinance would help bar owners. Yeadon said it would give establishments the power to remove someone violating the law. He said that with the classification of a civil infraction, they would have less of a legal argument to remove someone.

Mayor Mark Meadows (below, right) followed up, noting the concern from bar owners is not the ability to remove someone necessarily, but that once the offense happens, they?re potentially liable to sanctions under liquor control laws.



Council member Shanna Draheim (above, left) followed with questions, effectively asking Yeadon whether the offense really needs to be a misdemeanor.

"They [bar managers] have the ability to control who enters," Yeadon said. "But if it's a matter of people walking in and entering and simply being faced with a citation and removal versus a potential criminal offense, there's more of a deterrent factor in the latter. And I'm assuming that's what the establishments are looking for is that level of deterrent."

Stephens followed up, arguing that bars already have broad latitude to control who is in the bar, a point with which Yeadon agreed.

Stephens explained that he believes criminalizing marijuana use is a mistake, and that this ordinance therefore seems to go too far.

Meadows responded, again stating that bars can be punished — even have a liquor license suspended — for actions of people in the bar. Just because the bar can remove people doesn't protect them, Meadows said. He suggested this law would effectively protect business owners.

Stephens countered, "If we establish maybe the one-hundred-dollar fine, similar to what the misdemeanor is, without the actual misdemeanor charge, that could act as a bigger deterrent than a twenty-five-dollar civil infraction."

Stephens explained, "I want to find ways that we can help businesses and enforce the law while not penalizing people for the rest of their life for what I think is a nominal mistake."

But Council Member Ruth Beier disagreed with Stephens' framing of the issue.

"I don't see this as a mistake," Beier said. "In a bar, you're not allowed to smoke. So, if someone is actually going to smoke or consume marijuana in a bar, then they're old enough to be in a bar . . . that's not a mistake. It's a choice. They may have made it when they're high, they may have made it when they're drunk," but, she said, it's still unpleasant for others as well as dangerous for the bar owner's livelihood.



At this point, Mayor Pro Tem Erik Altmann (above) asked about the origin of this draft ordinance.

Meadows said he thought Council had discussed it, and that it had been brought to the City Attorney's attention as a consequence. Yeadon said he thought it had come through the City Manager's office. (City Manager George Lahanas was absent, so could not be asked.)

Then Meadows said he remembered: "I had a bar owner call me to point out that this is a problem that they think would have a bad effect on their operation should someone start to light up a joint in their establishment. And I passed it on to [the City Manager] and he must have passed it on to the City Attorney.

Draheim asked if Meadows had heard from more than one bar owner, and Meadows said yes, he had heard it from more than one.

Altmann asked about the penalty for smoking a cigarette in a bar. Yeadon could not recall and started to work on looking that up.

Meanwhile, Draheim and Stephens said they wanted this offense "lighting a joint" to be commensurate with lighting a cigarette. Draheim made clear that, for her, "it doesn't rise to the level of a misdemeanor," and Stephens agreed.

Draheim also pointed out she did not see a single business owner coming forward at the meeting

to speak to this. ?If they felt strongly, maybe I?d feel a little differently, but I?m not seeing that,? she said.

At that point, Altmann said he was disinclined to support the ordinance, citing inadequate information and a lack of ?strong motivation? for it.

Stephens finally moved to table the issue, and that motion passed unanimously. That means Council does not have any specific plan to bring this issue back for a vote.

After the motion to table passed, Yeadon advised Council that he had now looked up the question of smoking a cigarette in a bar. He told them that is a civil infraction in East Lansing.

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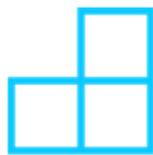
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