

Marijuana Licensing Work Group Meeting #3

June 11, 2020

Attendance:

- Ashley Kilroy (co-chair), Denver Department of Excise and Licenses
- Molly Duplechian (co-chair), Denver Department of Excise and Licenses
- Councilmember Kendra Black, Denver City Council
- Councilmember Candi CdeBaca, Denver City Council
- Michelle Garcia, Denver Mayor's Office of Social Equity and Innovation
- Reginal Nubine, Denver City Attorney's Office
- Jason Moore, Denver City Attorney's Office
- Lt. Andrew Howard, Denver Police Department
- Michel Holien, Denver Public Schools
- Sarah Woodson, The Color of Cannabis
- Shawn Coleman, 36 Solutions
- Truman Bradley, Marijuana Industry Group
- Art Way, Equitable Consulting
- Sarah Belstock, Denver Public Health
- John Bailey, Black Cannabis Equity Initiative
- Jaqueline Flug, Drizly
- Clarissa Kriek, National Cannabis Industry Association
- Ryan Tatum, Cultivated Synergy
- Henny Lasley, Smart Colorado
- Dan Pabon, Schwazze
- Kenneth Allison, All About Hemp
- Ean Seeb, Governor's Office
- Jessica Scardina, Vicente Sederberg

Agenda:

1. Welcome and Introductions
2. MLWG Purpose and Ground Rules
3. MLWG Meeting Format
4. Goals for Implementation
5. Introduction to Topic #3: Marijuana Equity Program
6. Revisit Topic #2: Marijuana Hospitality Program
7. Public Comment
8. Next Steps

Meeting Notes:

Item	Discussion
<p>Introduction and overview of City and County of Denver Business, Employment and Opportunity Study</p>	<p>Several members asked questions about the city’s previous work on equity initiatives; data on marijuana arrests and occupational licenses; and the Denver Cannabis Business and Employment Opportunity Study.</p> <p>One member asked several questions including the following:</p> <ul style="list-style-type: none"> • Does the City has data that shows funds directed to affordable housing benefit communities disproportionately impacted by the War on Drugs. • What was the scope of work and intent of the Denver Cannabis Business and Employment Opportunity Study. • Is the firm engaged to write the Denver Cannabis Business and Employment Opportunity Study is minority-owned. <ul style="list-style-type: none"> ○ A co-chair responded that the firm is not minority-owned. • Is there is de-aggregated data that shows the races of the people who responded to a survey used in the Denver Cannabis Business and Employment Opportunity Study. • This member stated that they would provide some of these and additional questions in writing. The questions and responses will be shared with the work group members <p>Additional discussion regarding the city’s previous work on equity initiatives and the Denver Cannabis Business and Employment Study occurred covering several areas and topics:</p> <ul style="list-style-type: none"> • There was discussion about whether there are legal limitations at the state that limited the scope of the Turn Over a New Leaf program. <ul style="list-style-type: none"> ○ The Department responded that there would need to be changes in state law so the city could do large-scale automatic expungements instead of clearing records on a case-by-case basis. Another member explained that there is not a central database that all jurisdictions use to report convictions, and it would need to be in place for the state to conduct mass, automatic expungements. • There was discussion among the members about what can be learned from other states’ and cities’ social equity programs, training of employees and the training programs available for workforce development in the cannabis industry, and options for how the City can address the issue about access to capital for new cannabis entrepreneurs. • In regard to the Denver Cannabis Business and Employment Opportunity Study, the group wanted to ensure that the survey respondents reflected the population that an equity program would serve.

	<ul style="list-style-type: none"> • One member asked whether the city helps applicants find warehouses or locations for their businesses. <ul style="list-style-type: none"> ○ The Department said that it cannot provide legal advice beyond making businesses aware of the rules and location requirements, but that applicants can contact the Department with questions. • Another member asked how the City decides which schools to give money to. <ul style="list-style-type: none"> ○ The Department clarified that schools are funded by property taxes, not by the city’s general fund, and that marijuana tax revenue does not go to schools; it is used in part to fund after-school programs and summer programs for youth in underserved communities. <p>Members provided an overview of and update on House Bill 20-1424, a bill for an act concerning social equity licenses in regulated marijuana. The bill defines criteria for who would be considered a social equity applicant.</p> <ul style="list-style-type: none"> • A representative for the governor’s office noted the bill had broad support among stakeholders and indicated that if the bill passes the Legislature, the governor will sign it. • One member noted that the industry and social justice advocates were involved in the development of HB20-1424, and said the process was collaborative and respectful. • One member noted the bill would extend the state licensing authority’s implementation to Jan. 1, 2021, which coincides with the availability of new retail delivery licenses. • One member described changes being considered by the state legislature to the state’s accelerator program and updated the group on the status of House Bill 20-1424. • One member asked when the state’s accelerator program would take effect. Another member said that if HB 20-1424 is passed, implementation would be pushed from July 1, 2020 to January 1, 2021.
<p>What are the current inequities within the cannabis industry?</p>	<ul style="list-style-type: none"> • One member said it may be difficult to say what a successful social equity program would look like is because society has never achieved equity. The member also said people from communities of color should be telling us what barriers they face. • One member said that access to capital is a barrier to entry and suggested looking at what the City can do to improve access to capital for equity applicants. • One member said that there is no one gatekeeper to social equity. The member said that The Color of Cannabis is rolling out a 10-week course for individuals interested in learning how to start a cannabis business, and companies like Native Roots, Lightshade, Terrapin

	<p>Care Station, and Marijuana Industry Group have volunteered to offer mentorship and training through the program. The member also said that they are working with partners to look at how to improve access to capital at the state level next year.</p> <ul style="list-style-type: none"> • One member said the data in the Denver Cannabis Business and Employment Opportunity Study is deficient and not representative of groups that have been excluded from participation in the cannabis industry. The Department explained the outreach strategies that were used in the study. The Department also explained that the study that was conducted was just one way in which they would be gathering feedback. The Department has been meeting with stakeholders on this topic for at least the last 12 months and will continue to engage with stakeholders during this work group process, in the development of a proposal and during the legislative process as well. The Department encouraged work group members to have any interested stakeholders contact the Department to set up meetings and give additional feedback. The Department also said that stakeholder outreach will continue to be part of the process as an ordinance progresses through City Council. • One member said that based on the findings in the Denver Cannabis Business and Employment Opportunity Study, access to capital appears to be one of the most pressing issues, and asked the City to look into how they could lower costs associated with regulatory requirements, such as inventory tracking. • One member encouraged the City Council members on the work group to hold stakeholder meetings about cannabis equity in their districts and suggested they encourage their fellow City Council members to do the same.
<p>What does success look like? What should be the goals of a cannabis social equity program?</p>	<ul style="list-style-type: none"> • One member expressed concern that the cannabis industry is represented on the work group. The member wondered if the industry would be willing to create a revenue stream for an equity program. • One member said the disproportionate number of black and brown people impacted by War on Drugs should be reflected in the ownership of the cannabis businesses; by way of example, the member said, if 74% of the people sent to prison for marijuana crimes were black, 74% of marijuana licenses should be owned by black people. • One member encouraged looking at multiple areas of entry such as ownership, management, and entry-level jobs. The member also suggested creating a fund to increase access to capital and offering revoked licenses to equity applicants. The member also suggested creating a cannabis control commission and developing a social equity report card for the industry. • One member suggested that success is finding a few businesses in the industry with good will and are willing to engage with equity

	<p>opportunities already available, such as the state’s accelerator program. The member expressed support for using the criteria for social equity applicants in HB 20-1424.</p> <ul style="list-style-type: none"> • One member warned at letting perfect be the enemy of the good. • One member said legislation and policy is extremely important to achieving equity. The member also suggested a portion of new hospitality and delivery licenses should go to equity applicants, and expressed that opportunities for workforce development and ancillary businesses are important as well. This member stated that change has to be a collaborative effort. • One member suggested looking at revoked licenses and distressed properties as opportunities for cannabis equity. The member said that the state accelerator program could create opportunities for franchise models, which the member said have had a positive economic impact on marginalized communities in other jurisdictions. • One member said that success can be measured by entrepreneurs having a pathway to success and not having their background or past stand in the way. The member said that future success may mean not needing a program at all. • One members stated that affecting change should not just be about money and power, stating the currency they worked in was respect.
<p>What criteria should Denver use to determine the eligibility of an equity applicant?</p>	<ul style="list-style-type: none"> • One member said criteria for the eligibility of a social equity applicant should include people from neighborhoods with a disproportionate number of cannabis businesses. The member also said race should be used in the criteria. • One member noted that HB 20-1424 gives the state Marijuana Enforcement Division the authority to make rules to define disproportionate impacted areas, and to use the definition in determining eligibility of social equity applicants. The member noted that race-based criteria for equity programs have created legal challenges in other jurisdictions, which has slowed or halted licensing for equity applicants. • One member asked what legal challenges to an equity program could be. The Department responded that other jurisdictions have seen challenges to the criteria their equity programs use to determine eligibility and that we should ensure that criteria can withstand a legal challenge. • One member said that opportunity zones are not necessarily representative of people who have been impacted by the War on Drugs, which is why the criteria in HB20-1424 was created to be race-neutral and broad, while still capturing people who were disproportionately impacted by the War on Drugs. The member said

	<p>the bill also allows the state Marijuana Enforcement Division to determine some of the specifics related to criteria through rulemaking.</p> <ul style="list-style-type: none"> • One member said it is important to give regulators discretion when determining criteria in the event an exception must be made for a person who fits in the spirit of equity but not exactly into the criteria. • One member wondered how COVID-19's impact on the City's budget will affect youth marijuana prevention funding and asked the group to balance the need for funding youth marijuana prevention programming and social equity programming. • A representative of the Denver City Attorney's Office noted that Ohio's social equity program, which used race-based criteria, was struck down. The representative said that using race-based criteria for equity programs is a new concept and has not been broadly tested yet. The representative noted the city would consider a policy direction and examine what legal jeopardy may exist. • One member asked if an equity program is subject to a lawsuit, whether the program would come to a halt. A representative from the Denver City Attorney's Office responded that the plaintiff in such a case would likely ask the court to halt the program until the issue is resolved. The member who posed the question said this is not a risk worth taking, and that the state definition proposed in the legislature is the best path forward and can be built on for a specific jurisdiction. • One member asked how the city runs other affirmative action programs. A representative from the Denver City Attorney's Office said that the approach for affirmative action in contracting has existed for decades and was borrowed from different programs around the country that had already been legally tested. The representative also noted that race is only one factor in education based affirmative action. The representative said that cannabis equity is a developing area and it will be tested again and again in the courts. • One member said that the group should not just look at legal challenges but at challenges other states' and cities' programs have experienced in general, pointing to problems with implementation in Los Angeles and Massachusetts. • One member pointed to extremely low income thresholds in other jurisdictions as a problem, and striking a balance between income thresholds that are too high or too low is difficult. The member suggested looking at income tiers.
<p>What tools, services, and benefits would be</p>	<ul style="list-style-type: none"> • One member said that businesses should not be allowed to sell their licenses. The member said that zoning requirements are

<p>available to individuals who qualify for Denver’s cannabis social equity program?</p>	<p>discriminatory and recommended licenses be spread out so they are not disproportionately located in certain neighborhoods.</p> <ul style="list-style-type: none"> • One member said that a community investment fund and clear local ordinances would be helpful, as well as opting in to delivery or hospitality. The member said that the mentorship and networking opportunities are important as well. • One member said the considerations put forth in the presentation were good ideas and wondered what other recommendations members might have. • One member asked how an equity program could assist with providing legal assistance to equity applicants, and suggested the city partner with a law firm to provide legal assistance. The member also suggested the city provide incentives to businesses that want to participate in the Accelerator program, in addition to those incentives offered by the state. • One member asked how not being able to sell licenses would benefit social equity. Another member responded that when a business folds, their license is not going back into the general pool of licenses, but rather being sold to the highest bidder. The member who posed the question responded that prohibiting selling licenses is not a good solution. • One member pointed to the Rooney rule in the National Football League and suggested it be implemented for the cannabis industry. (The Rooney rule requires teams to interview minority candidates for head coach and other senior positions.) Another member said that the Rooney rule has been recognized as a failure and is not analogous to transfers of ownership in the cannabis industry. • The Department noted that not allowing businesses to sell licenses could hurt equity owners because they would not have the same opportunity that current owners have had to sell licenses. • One member noted that there is no cap on the number of licenses issued by the state. The member said that liquor licenses can be bought and sold and do not go back into the pool of licenses.
<p>What should be the ownership requirements of a social equity business entity?</p>	<ul style="list-style-type: none"> • Revisit this topic at next meeting
<p>What challenges specific to Denver might exist for individuals seeking to participate in the state’s accelerator program?</p>	<ul style="list-style-type: none"> • Revisit this topic at next meeting

<p>Given the current economic climate, what are possible funding ideas for a cannabis social equity program in Denver?</p>	<ul style="list-style-type: none">• Revisit this topic at next meeting
<p>What resources could established businesses provide to equity applicants to help them enter and be successful in the industry? What incentives would make it worthwhile for established cannabis businesses to participate in an equity program established by the city?</p>	<ul style="list-style-type: none">• Revisit this topic at next meeting