STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1356

Jacob Schlichter, et al.,
Relators,

vs.

City of Albert Lea, et al.,
Respondents.

Filed May 18, 2026
Reversed; motion denied
Beane, Judge

City of Albert Lea

David L. Liebow, James A. Godwin, Christopher T. Porter, Godwin Adkins, Rochester, Minnesota (for relators)

Jason J. Kuboushek, Andrew A. Wolf, Iverson Reuvers, Bloomington, Minnesota (for respondents)

Considered and decided by Bentley, Presiding Judge; Ede, Judge; and Beane, Judge.

NONPRECEDENTIAL OPINION

BEANE, Judge

Relators Jacob Schlichter and The Smoking Tree LLC (collectively, Schlichter) appeal by writ of certiorari the decision of respondents City of Albert Lea (the city) and the Albert Lea City Council (the council) to deny his application for a cannabis retail business registration. Schlichter argues that the denial of his application, despite a city ordinance requiring registrations to be issued on a first-come, first-served basis, was

contrary to law and arbitrary. Schlichter also moved to strike portions of the city's brief. We reverse and deny Schlichter's motion to strike.

FACTS

In 2023, the Minnesota legislature legalized the adult use of cannabis and adopted chapter 342 of the Minnesota Statutes, Minn. Stat. §§ 342.01-.82 (2024). 2023 Minn. Laws. ch. 63, art. 1, at 2686-798. Chapter 342 established a state-wide regulatory scheme governing licensure for cannabis and hemp businesses. Minn. Stat. § 342.10. The Minnesota Office of Cannabis Management (OCM) was created to enforce that regulatory scheme, in part by issuing and renewing cannabis licenses. Minn. Stat. § 342.02, subd. 2(6). Would-be cannabis businesses seeking to operate in Minnesota must both obtain a state license from OCM and register with the local government in the location where the business will operate. *See* Minn. Stat. § 342.14, subds. 1, 6. The legislature expressly limited the authority of local units of government to prohibit the establishment or operation of cannabis businesses within their jurisdictions. *See* Minn. Stat. § 342.13.

Against that backdrop, the city adopted local ordinances implementing the provisions of Minnesota Statutes chapter 342, which included a procedure for registering cannabis businesses to operate in the city. *See* Albert Lea, Minn., Code of Ordinances (ALCO) §§ 5.001-.080 (2025).[1] The ordinances provide procedures for registering cannabis businesses with the city after OCM issues a cannabis business license to operate

[1] About a week before oral argument in this court, the city significantly amended its cannabis-related ordinances. Albert Lea, Minn., Ordinance 26-150 (Feb. 23, 2026). Unless indicated otherwise, we cite the ordinance in effect at the time of the events in this case.

in the state. Of particular relevance here, section 5.030 states that the city "will register cannabis businesses on a first-come, first-served basis, which will be based solely on a time-stamped State of Minnesota, OCM issued license." ALCO § 5.030. The parties agree that this version of the city's ordinance was in effect at the time of the city's decision on Schlichter's application.

On July 17, 2025, OCM issued Schlichter a cannabis microbusiness license. Schlichter applied for a cannabis retail business registration from the city on the same day. City staff reviewed Schlichter's application for preliminary compliance, deemed it complete, and forwarded the application to the council for final approval. Schlichter's application was placed on the agenda for the July 28 council meeting.

Before the July 28 council meeting, city officials received email and social media messages raising concerns about Schlichter's criminal history and conduct in the community. One self-described "concerned citizen" sent a member of the city council documents from the court file in a criminal matter related to a 2016 incident involving Schlichter.

The council discussed Schlichter's application at a work session and again at the regular council meeting on July 28. During the work session, both the city manager and the city attorney acknowledged the concerns raised by members of the public about Schlichter's application. They each explained their understanding that state law limited the city's authority to reject cannabis business registration applicants who had received licenses from OCM. The city manager also explained that the city's ordinance had been written to award cannabis retail business registrations on a first-come, first-served basis in

part to mitigate the city's risk of being sued for rejecting applicants for reasons not authorized by state law.

During the public meeting that immediately followed the work session, the council considered a motion to approve Schlichter's application for a cannabis business registration. The city manager explained that the city had adopted a cannabis ordinance that reflected what it understood to be the extent of its authority under state law to limit cannabis businesses in the city and that Schlichter's application met all the requirements of that ordinance. The council's discussion of Schlichter's application focused on opposition to cannabis among both councilmembers and constituents and on frustration among councilmembers and city staff over the legislature's decision to restrict local government control over cannabis businesses within their jurisdiction. No council member expressed opposition to Schlichter's application because of his criminal history or for any other reason specific to his suitability to operate a cannabis business in the city. The motion to approve Schlichter's application failed on a 4-3 vote. No one indicated during the July 28 meeting that Schlichter's application was being tabled for further consideration or would be reconsidered at a future meeting.

After the July 28 meeting, the city heard from additional members of the public with concerns about Schlichter's criminal history and alleged pattern of harassing behavior, including online harassment of journalists who reported on Schlichter. City staff also sought clarification from OCM about the state's expectations regarding the city's role in approving cannabis businesses within its jurisdiction. OCM's response led city staff to conclude that local governments are not required to be a "rubber stamp" for OCM licensing

decisions but may instead implement their own processes for selecting among applicants for available cannabis business registrations.

The council held its next work session and regular meeting on August 11. At the August 11 meeting, the city manager gave a report on cannabis licensing and what city staff had learned from OCM since the July 28 meeting. He described the new guidance city staff had received from OCM that the city retains discretion to develop its own process for evaluating would-be cannabis business owners. The city manager also explained that OCM does not conduct thorough background checks on cannabis business license applicants and proposed that the city implement a background check requirement for obtaining a city registration. The council then voted to grant registrations to two other cannabis business applicants, thereby issuing the city's two available cannabis business registrations.[2] The council briefly discussed Schlichter's application, and the mayor asked whether there was a motion to reconsider it. No councilmember made a motion to reconsider. The meeting ended without further action on Schlichter's application.

Schlichter appeals by writ of certiorari.

[2] Chapter 342 obligates local governments to provide at least one cannabis business registration per 12,500 residents but does not place a ceiling on registrations. Minn. Stat. § 342.13(h), (j). Complying with the minimum requirement, the city capped registrations at two. ALCO § 5.026. Neither of the two registered cannabis businesses whose applications were approved during the August 11 meeting are parties to this appeal.

DECISION

We begin by identifying the scope of our review. We next consider whether the city's denial of Schlichter's application was a quasi-judicial or legislative decision. Turning to the merits, we then address whether the city's decision was contrary to law or arbitrary.

I.

The parties dispute whether the decision presented for our review occurred on July 28 or August 11. The city maintains that the decision under review is the August 11 denial of reconsideration. Schlichter, however, argues that this court's scope of review is limited to the July 28 denial of his application and does not include the August 11 failure to reconsider.

The scope of our certiorari review is limited to "the final determination of an inferior tribunal which, if unreversed, would constitute a final adjudication of some legal rights of the relator." *Minn. Dep't of Corr. v. Knutson*, 976 N.W.2d 711, 719 (Minn. 2022) (quotation omitted). A determination is final when it has "a binding effect on the legal rights of the parties . . . such that the rights of the parties are irrevocably fixed by the final decision." *Lancaster v. Dep't of Hum. Servs.*, 18 N.W.3d 80, 84 (Minn. 2025) (emphasis omitted) (quotations omitted).

Our scope of review is limited to the July 28 meeting because at that meeting, the council made a final, binding determination when the motion to approve Schlichter's application failed by a 4-3 vote. *See* ALCO §§ 3.04 ("Except as otherwise provided in this Charter or by law, an affirmative vote of a majority of the qualified and acting members of the council is required for the passage of . . . motions."), 5.023 (stating that the city council

is responsible for approving or denying cannabis business applications) (2025); *see also County of Washington v. City of Oak Park Heights*, 818 N.W.2d 533, 541-42 (Minn. 2012) (holding, in part, that a city council's denial of a claim was a binding decision based on the city's policy).

The council's argument that the decision under review is the August 11 failure to reconsider is unavailing. For a previous city-council decision to be reconsidered, the movant must secure a passing motion to reconsider. *See Chanhassen Ests. Residents Ass'n v. City of Chanhassen*, 342 N.W.2d 335, 338 (Minn. 1984) (concluding that the city council's passing vote on a motion to reconsider an application was valid, despite a procedural irregularity). At the August 11 meeting, no motion to reconsider the council's July 28 denial of Schlichter's application was made, so no formal action affecting Schlichter's legal rights was taken. In other words, the only meeting at which the council rendered a decision on Schlichter's application was the July 28 meeting.

The city contends that the July 28 decision "was not an affirmative denial" but a "pause to allow council members more time to address unresolved concerns." No information in the record supports the council's argument that it merely paused its consideration of Schlichter's registration to "address unresolved concerns," nor does a city ordinance authorize such a pause. The motion at the July 28 meeting concerned an "action to approve" Schlichter's registration. During that meeting, no one proposed reserving discussion on Schlichter's application to permit further investigation or deliberation. The city points to no authority, in its ordinances or otherwise, that could support a conclusion that the July 28 vote was anything other than a denial of Schlichter's application.

Because the council's July 28 vote denied Schlichter's application and no formal action was taken on that application on August 11, the only council decision presented for our review is the July 28 denial.

II.

The parties next dispute whether the council's decision to deny Schlichter's application was quasi-judicial or legislative. A decision is quasi-judicial if the decision "affect[s] the rights of a few individuals analogous to the way they are affected by court proceedings." *Zweber v. Credit River Township*, 882 N.W.2d 605, 609 (Minn. 2016) (quotation omitted); *accord Reetz v. City of St. Paul*, 956 N.W.2d 238, 243 (Minn. 2021). By contrast, a decision is legislative if it has "broad applicability and affect[s] the rights of the public generally." *Zweber*, 882 N.W.2d at 609 (quotation omitted). A quasi-judicial decision involves "(1) investigation into a disputed claim and weighing of evidentiary facts; (2) application of those facts to a prescribed standard; and (3) a binding decision regarding the disputed claim." *Reetz*, 956 N.W.2d at 243 (quotation omitted). Examples of quasi-judicial actions include decisions to terminate the employment of public employees, certain permitting and zoning decisions, decisions as to whether overpayments for city services should be refunded, and decisions as to employee eligibility for defense and indemnification. *See Lancaster*, 18 N.W.3d at 83 (collecting cases); *In re Brown*, 28 N.W.3d 486, 498-99 (Minn. App. 2025) (explaining that the city's denial of an employee's claim for defense and indemnification was quasi-judicial), *rev. denied* (Minn. Jan. 21, 2026).

The city's denial of Schlichter's application for a cannabis business registration bears all the hallmarks of quasi-judicial decision-making. Deciding whether Schlichter was entitled to a cannabis business registration required the council to determine facts about Schlichter and his business and then apply the city's ordinances. The city's decision had a binding effect on Schlichter, as it precluded him from operating his cannabis business in the city. And importantly, only Schlichter's rights, not the public's rights generally, were affected by the city's decision. *See Reetz*, 956 N.W.2d at 243; *Brown*, 28 N.W.3d at 499.

To convince us otherwise, the council argues that its decision here is legislative because the decision was premised on the city's "inherent police power to regulate businesses posing public safety risks" and that the decision is "indistinguishable from legislative liquor-licensing decisions." We are not persuaded.

The city's authority in the cannabis-regulatory context is defined by state law. "A municipality has no inherent powers, but only such powers as are expressly conferred by statute or are implied as necessary in aid of those powers which are expressly conferred." *Welsh v. City of Orono*, 355 N.W.2d 117, 120 (Minn. 1984). Rather than conferring broad authority on municipalities to regulate cannabis businesses within their jurisdictions, Minnesota Statutes chapter 342 constrains local regulatory authority. For example, local governments are barred from prohibiting the operation of cannabis businesses within their jurisdictions; instead, local governments must authorize a minimum number of cannabis business registrations, based on their population. Minn. Stat. § 342.13(b), (h). Local governments are also directed to issue a retail registration to a cannabis business that has a valid OCM-issued license and meets other criteria not contested here. Minn. Stat. § 342.22,

subd. 3(a) (stating that a local government "*shall issue* a retail registration to a cannabis microbusiness" that has a valid OCM-issued license and satisfies other criteria (emphasis added)). Although the city's decision to adopt ordinances consistent with this statutory framework was undoubtedly legislative, once the city adopted a clear standard by which applicants for cannabis business registrations would be evaluated, its decision applying that standard to Schlichter was quasi-judicial.

The city's contention that its decision on Schlichter's application is "indistinguishable from legislative liquor-licensing decisions" does not convince us otherwise. The statutory regulatory frameworks for liquor and cannabis are distinguishable. Whereas state liquor-licensing laws grant local authorities some discretion in issuing liquor licenses, state cannabis laws make local registration of OCM-licensed cannabis businesses mandatory, subject to a limited set of permissible restrictions. *Compare* Minn. Stat. § 340A.509 (2024) (authorizing local authorities to "impose further restrictions and regulations on the sale and possession of alcoholic beverages within its limits"), *and Wajda v. City of Minneapolis*, 246 N.W.2d 455, 457 (Minn. 1976) (stating that state law grants "broad discretion" in determining whether to issue a liquor license), *with* Minn. Stat. § 342.22, subd. 3(a) (stating that local governments "*shall issue* a retail registration to a cannabis microbusiness" that OCM has licensed (emphasis added)).

Because of the differences in the statutory regulatory frameworks for cannabis and liquor, we are not persuaded that the city possesses the same broad authority over cannabis business registrations that it does over liquor licenses. But even if it did, the city, in adopting the cannabis ordinance in effect at the time of its decision on Schlichter's

application, chose to constrain its own authority and adopt a first-come, first-served rule for registering OCM-licensed cannabis businesses, so long as the applicant is not past due on certain enumerated obligations or in violation of state or local law. ALCO § 5.030(1) (stating that the city "*will register* cannabis businesses on a first-come, first-served basis, which will be based *solely* on a time-stamped State of Minnesota, OCM issued license" (emphasis added)); *id.* (2)-(3). Applying that standard to Schlichter's application did not require or invite the council to exercise broad discretion and consider the general welfare. Instead, it required the council to consider whether Schlichter met the standard for a cannabis business registration, which was a quasi-judicial decision.

III.

We review a city council's quasi-judicial decision using a limited and "nonintrusive" standard of review and will only reverse the city council's decision if it was "arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it." *Dietz v. Dodge County*, 487 N.W.2d 237, 239 (Minn. 1992) (quotation omitted). Schlichter argues that the city's decision should be reversed because it was both contrary to law and arbitrary. We consider each issue in turn.

A.

In arguing that the city's decision on his application was contrary to law, Schlichter relies on both the city's ordinances and state law. We first observe that a city is obligated to follow its own ordinances. *See, e.g.*, *Hamline-Midway Neighborhood Stability Coal. v. City of St. Paul*, 547 N.W.2d 396, 399 (Minn. App. 1996) (concluding that a city's decision was voidable for failure to follow its ordinance), *rev. denied* (Minn. Sept. 20, 1996); *Curtis*

Oil v. City of North Branch, 364 N.W.2d 880, 884 (Minn. App. 1985) (explaining that a city council's failure to consider factors required by ordinance rendered the decision arbitrary). The city ordinance in effect when the council considered Schlichter's application unambiguously stated that the city "will register cannabis businesses on a first-come, first-served basis, which will be based *solely* on a time-stamped State of Minnesota, OCM issued license." ALCO § 5.030(1) (emphasis added). The ordinance further conditioned registration on the applicant being current on "property taxes, development agreements, local development loans, assessment, or municipal utilities," and on the registrant not being "in current violation of local ordinances or state laws." *Id.* (2)-(3). Section 5.023 also stated that "[t]he city *shall issue* a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat[]. § 342.22." ALCO § 5.023(b) (emphasis added).

During the July 28 council meeting, the city manager advised the council that Schlichter's application satisfied all the requirements of the city's cannabis ordinance. The city manager also explained that the ordinance reflected the extent of the city's authority under state law to limit cannabis businesses in the city. Nothing in state law required the city to adopt a "first-come, first-served" policy for deciding which applicants would receive the limited number of cannabis business registrations the city planned to issue. But once the city enacted that policy into law, the council was not free to disregard it. The discussions during the July 28 meeting and during the work session that preceded it reflected a clear understanding that, if the council chose to reject Schlichter's application, it would be doing

so contrary to its own ordinance. And yet it did so anyway. That decision was contrary to law and cannot be sustained.

Schlichter urges us to go further and conclude that Minnesota Statutes chapter 342 limits the city's authority to consider any factors not specifically enumerated in the statute when evaluating cannabis business registration applications. We acknowledge that, since the city's denial of Schlichter's application, the city has amended its cannabis ordinance, raising the number of available cannabis business registrations in the city to four and outlining other criteria by which it will evaluate would-be cannabis business registrants. But because the city has not yet applied those criteria to Schlichter, the question of whether the city's amended cannabis ordinance is within the authority granted to the city under chapter 342 is not presently before us.

B.

Schlichter also argues that the city's rejection of his application was arbitrary. In analyzing the arbitrariness of a quasi-judicial decision, we have considered whether the decision-maker (1) relied on factors not intended by the legislature, (2) "entirely failed to consider an important aspect of the problem," (3) "offered an explanation for the decision that runs counter to the evidence," or (4) rendered a decision "so implausible that it could not be ascribed to a difference in view or the product of [the decision-maker's] expertise." *Brown*, 28 N.W.3d at 505 (alteration in original) (quoting *Minn. Transitions Charter Sch. v. Comm'r of the Minn. Dep't of Educ.*, 844 N.W.2d 223, 235 (Minn. App. 2014), *rev. denied* (Minn. May 28, 2014)).

Here, the record indicates that the city's denial of Schlichter's application relied on factors the city had not intended, as reflected in its adoption of an ordinance requiring cannabis business registrations to be awarded on a first-come, first-served basis. To the extent the council gave reasons for its decision on Schlichter's application, those reasons related not to the merits of his application under the governing ordinance but to disagreement with the state's cannabis-related policy decisions. During the July 28 council meeting, the city manager informed the council that Schlichter's application met all the requirements of the city's cannabis ordinance. The discussion that followed had little, if anything, to do with Schlichter or his application. No city official identified any deficiency with Schlichter's application or articulated any reason why Schlichter—based on his criminal history or any other reason—should not be permitted to operate a cannabis retail business in the city.

Instead, the council's discussion focused on dissatisfaction with the state's assertion of authority over cannabis policy and opposition to cannabis legalization generally. For example, one councilmember stated, "The fact that this is on the agenda tonight is giving a lot of people the illusion that we have a choice in this matter. There is a reason it was under the . . . consent and approval agenda because it is a rubber stamp item." Another stated, "I get tired of control being taken by whether it's state or federal government in things that they know nothing about. And, so I'm not for this." And the mayor, who is a voting member of the council, expressed broad disagreement with the state's cannabis policy, stating, "I have not been a fan of this since the subject first came up a year ago. It seems like just two years ago we were locking people up for . . . smoking cannabis. And

now we're promoting it." Following this discussion, the motion to approve Schlichter's application failed.

Considering the council's extensive discussion both before and during the July 28 meeting, we also conclude that the city council's decision to deny Schlichter's business registration was arbitrary. Councilmembers expressed both clear understanding and dissatisfaction that their role in the cannabis registration process is limited, yet they disregarded those limitations by denying Schlichter's application, despite city staff's evaluation that it complied with all requirements of the city's ordinance. *See Amoco Oil Co. v. City of Minneapolis*, 395 N.W.2d 115, 117-18 (Minn. App. 1986) (stating that a city council's denial of a conditional-use permit was arbitrary when the city council relied on a factor to justify denial, but that factor was not a relevant factor listed in its ordinance).

Because we conclude that the denial of Schlichter's application for a cannabis business registration was contrary to law and arbitrary, we reverse.

IV.

Having concluded that the council's decision must be reversed, the only remaining question is what constitutes an appropriate remedy. Schlichter asks us to direct the city to issue him a cannabis business registration, but we decline to do so. At oral argument and then in a citation of supplemental authority, Schlichter informed us that the city amended its cannabis ordinance shortly before oral argument in this case. *See* Albert Lea, Minn., Ordinance 26-150 (Feb. 23, 2026). Ordinarily, we would apply the city's existing ordinance to determine whether Schlichter should be issued a cannabis business registration. *See Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566,

575 (Minn. 2000). But the record before us does not permit us to reach a conclusion as to whether Schlichter's application should be evaluated under the amended ordinance or whether he would be entitled to a cannabis business registration under the current ordinance, and we express no opinion on those issues. We conclude only that the city's July 28 denial of Schlichter's application cannot be sustained.[3]

Reversed; motion denied.

[3] Schlichter moved to strike from the city's brief portions of the statement of facts and all arguments relying on materials outside the record. He asserts that sections A, C, E, and I rely on materials outside the record; sections C, D, and E "editorialize[] extensively"; and that sections C and E address matters irrelevant to issues on appeal.

We decline to strike portions of the city's brief relying on materials outside the record and addressing matters irrelevant to the issues on appeal as moot because we have not considered these materials. *See Drewitz v. Motorwerks, Inc.*, 728 N.W.2d 231, 233 n.2 (Minn. 2007) (denying motion to strike as moot after not considering challenged portions of brief). We also decline to strike portions of the city's brief that "editorialize[] extensively" because we are not persuaded that the city's presentation of the facts or arguments strayed beyond permissible persuasive rhetoric. *See State v. Duncan*, 608 N.W.2d 551, 559 (Minn. App. 2000) (denying a motion to strike "arguments that are not supported by legal citations and arguments with which [the movant] disagrees"), *rev. denied* (Minn. May 16, 2000).