



County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

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SUSAN MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

November 12, 2014

AGENDA: November 18, 2014

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Cannabis Business Tax Implementation and Update on Cannabis Ordinances

Dear Members of the Board:

Background

As you are aware, current election results for Measure K show that 77% of the county-wide voters supported the passage of the County Cannabis Business Tax. In the City of Santa Cruz, 82% of voters supported Measure L, which provides a tax on dispensaries in that jurisdiction. We would like to express our appreciation for this overwhelming support by the voters for these needed measures.

Over the course of the last months, staff have established a work team to address the various Cannabis issues. The group has been meeting to address the following issues matters:

- Measure K administrative systems – supporting the collection of the tax;
- Chapter 7.126 Ordinance changes – tying cultivation activities with dispensaries that they supply;
- Code compliance/Enforcement strategies – addressing the many cultivation sites that are not compliant with the County's limits on cultivation for medical use; and
- Related matters – including interface with the criminal justice departments for appropriate cases.

You will recall that, based on previous tax filings with the State Board of Equalization, the Cannabis Business Tax is estimated to generate \$900K in County general purpose revenues. Attachment A is a letter from Supervisors Coonerty and Leopold requesting staff to return with a further report in January to determine whether this estimate continues to be appropriate, as well as presenting mid-year staffing recommendations to address the significant enforcement issues previously highlighted to the Board.

Administrative Systems

As a local tax measure, administrative responsibility for collecting the tax and assuring compliance with the Measure's provisions lies with the soon to be consolidated office of the Auditor-Controller/Treasurer-Tax Collector. The process to be used will be similar to that used for the collection of Transient Occupancy Tax. The Information Services Department is developing an on-line system for registering, reporting on taxes and making payments. The Auditor will also be responsible for auditing filings, once made.

Ordinance Changes

County Counsel and the Planning Department are currently working on developing modifications to the Cannabis Ordinance (Chapter 7.126 of the County Code) to align cultivation sites with the dispensaries they serve. This effort, referred to as "closing the loop," is discussed in Attachment B, the letter of the Planning Director.

Enforcement

Attachment B also discusses the challenges we are experiencing with non-compliant grow sites. The number of sites has unfortunately grown from 84 to 123. It is proposed that Planning work with Counsel on establishing an approach to limiting the numbers of authorized grow sites. The Planning Director's letter (Attachment B) describes these concepts further.

Other

We appreciate the cooperation and willingness of the Sheriff and the District Attorney to address those matters which do not comply with the County's standards.

We look forward to working with the Association for Standardized Cannabis on these and related issues.

Conclusion

In order to proceed, IT IS RECOMMENDED that your Board adopt the recommendations of Supervisors Coonerty and Leopold and the Planning Director as provided in Attachments A and B.

Very truly yours,



Susan A. Mauriello
County Administrative Officer

Attachments (2)

SAM/sg



County of Santa Cruz 0659

BOARD OF SUPERVISORS

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JOHN LEOPOLD
FIRST DISTRICT

ZACH FRIEND
SECOND DISTRICT

NEAL COONERTY
THIRD DISTRICT

GREG CAPUT
FOURTH DISTRICT

BRUCE MCPHERSON
FIFTH DISTRICT

AGENDA: 11/18/14

November 12, 2014

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: MEASURE K IMPLEMENTATION

Dear Members of the Board:

Although the Board has not yet certified the results of the November 4, 2014, election, it seems clear that Measure K was approved by a large majority.

Board members are very aware of the existing limitations to the County's ability to adequately enforce the requirements of the ordinance regulating the cultivation of cannabis. Additional staff is needed in the Planning Department to ensure that violators of the provisions of the ordinance are brought into compliance as quickly as legally possible. In addition, it is important for the Auditor-Controller to have adequate staff to conduct timely audits of the dispensaries.

In light of the current problems, it seems reasonable for the Board to act expeditiously to start spending some of the additional revenue in this area.

Therefore, we recommend that the Board of Supervisors direct the County Administrative Officer to return to the Board no later than January 13, 2015, with the following:

1. A report on the timing and amount of estimated revenues from the voter approved tax; and
2. Recommendations for the distribution of Measure K revenues, which should at least include funding for additional staff resources in the Planning Department,

BOARD OF SUPERVISORS
November 12, 2014
Page 2

the Auditor-Controller's Office, and other departments as necessary, to better enforce the provisions of the cannabis cultivation and dispensaries ordinances.

Sincerely,



NEAL COONERTY Supervisor
Third District



JOHN LEOPOLD, Supervisor
First District

NC/JL:ted

cc: County Administrative Officer
Planning Department
Auditor-Controller

1527H3



COUNTY OF SANTA CRUZ 0661

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
 KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

November 12, 2014

AGENDA DATE: November 18, 2014

BOARD OF SUPERVISORS
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, CA 95060

Status of Medical Cannabis Ordinances

Members of the Board:

On September 16, 2014, your Board considered a report from County Counsel and the Planning Department on implementation and enforcement of the medical cannabis cultivation ordinance, Chapter 7.126 of the County Code. At the conclusion of those discussions, you directed staff to return after the November election with a report on the implementation of the County's cultivation ordinance, in order to address concerns related to the proliferation of cannabis cultivation sites and the attendant impacts to our environment, health and safety, and neighborhoods.

On November 4th Measure K, the Cannabis Business Tax, was approved by a wide margin, with just over 77% of those casting ballots voting "Yes". Staff and representatives from the offices of County Counsel, Sheriff, District Attorney, Auditor Controller and Tax Collector, and the Planning and Information Services departments have been meeting to discuss Measure K implementation, the status of cannabis cultivation, and the administration of the County's medical cannabis ordinances. At last count, the number of sites in the rural areas that do not comply with County Code has grown from 84 to 123. Planning staff is receiving numerous complaints weekly from residents about both indoor and outdoor grows in residential neighborhoods.

Staff have discussed the value of amendments to the current ordinances that would be designed to "close the loop", such that cultivation sites are linked to the dispensaries they supply. The County could consider a fixed number of both indoor and outdoor sites to be authorized under the limited immunity principles, and then all other grows – with the exception of a limited number of plants grown for personal medical use by occupants who live on the site - would be subject to enforcement as a criminal matter. Sites subject to enforcement as a criminal matter would be addressed by the Sheriff's Office, with the Planning Department handling the aftermath in terms of restoration of environmental damage, abatement of dangerous buildings and conditions, and so forth. Support would also be provided from County Counsel and the District Attorney's Office.

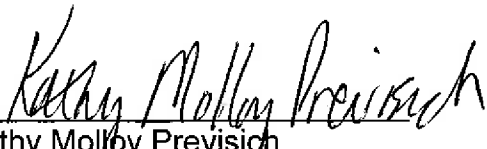
It is clear that the dispensaries that qualify for limited immunity under the County's dispensary ordinance are also concerned about the extent of environmental damage and neighborhood instability that is being generated by non-compliant cultivation of cannabis. The County appreciates the Measure K support from the Association for Standardized Cannabis (ASC), and staff believes that further conversations with the ASC about strategies to further strengthen the medical purpose of the County's dispensary and cultivation ordinances would be informative.

Additional time is required to have conversations with members of the ASC, to draft amendments to the County's current medical cannabis ordinances for consideration by your Board, and to continue to work with County Counsel, the Sheriff, the County Administrative Officer and others to recommend an appropriate approach for enforcement, including the level of resources required to support that approach.

It is therefore RECOMMENDED that your Board:

1. Accept and file this report on the County's Medical Cannabis Ordinances;
2. Direct County Counsel to return by January 2015 with proposed amendments to Chapter 7.126 of the County Code related to the cultivation of medical cannabis as described above; and,
3. Direct the County Administrative Officer, in conjunction with Planning and other members of the Medical Cannabis team, to return by January 2015 with a recommended approach and level of resources for enforcement for the proliferation of outdoor cultivation of Cannabis, which currently threatens the health and safety of our environment, the stability of our neighborhoods, and the reputation of our community.

Sincerely,


Kathy Molloy Previsich
Planning Director

RECOMMENDED:


SUSAN A. MAURIELLO
County Administrative Officer

Copy to: County Counsel
Sheriff-Coroner
District Attorney
County Administrative Office

Benjamin Rice
ATTORNEY AT LAW

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November 14, 2014

To: Santa Cruz County Board of Supervisors,

Friends: as you know, a significant part of my legal practice involves representing county residents connected with medical cannabis as patients, dispensary operators and cultivators. Many clients have expressed their determination to work within the state laws and county ordinances this board has passed and have talked with me about what they perceive to be the good and the problem features of our county cannabis ordinances. I am writing to offer some suggestions for changes in these ordinances that are money saving, easy fixes which will not only resolve problems but also be useful in the future if, as is widely expected, the state passes recreational cannabis laws in 2016.

Regulation and Anonymity: The Problem

As you may know, James Cole, Assistant US Attorney in late October stated that because California has not come up with statewide regulations concerning medical cannabis, the DEA will need to launch more enforcement actions here.¹

What is worrisome to many cultivators who have opted to work within the county guidelines is the requirement for dispensaries to maintain their names and telephone numbers for one year and make those records available "for review upon the request of any enforcing officer."²

In October, a Planning Department code compliance officer notified dispensaries that she would need to come and review their cultivator records and suggested she would need to copy them. After checking with county counsel I was told that the dispensaries need only show that they have the records and needn't allow copying. That clarification stopped the demands but the ambiguity remains in the language AND as long as the records exist they are subject to a federal subpoena. Whether the county or only the dispensaries maintain the records *the*

¹ Please see attached 10-16-14 LA Times interview

² 7.124.040(Q) Every medical marijuana business is prohibited that fails to obtain the information required by subsections (1) and (2) of this subdivision (Q). The information collected shall be maintained in the offices of the business for a period of at least one (1) year, and made available for review upon the request of any enforcing officer.

#69

people who are not "the bad actors" but who are working within the state and the county regulations are being subjected to federal arrest and prosecution. (In 2012 the DEA subpoenaed cultivator records from Mendocino County³ and other locations around the country when those jurisdictions tried to regulate their medical cannabis industry.)

Regulation and Anonymity: The Solution

The county has for years had a smart system for patients to secure their state medical cannabis card through the County Health Department. The patient's anonymity is secure because after proving their patient status and residency the county doesn't keep their identifying information.

Using the "Third-Party Standards and Certification Program" required by the county's new dispensary ordinance in conjunction with a similar procedure being employed for the patient's state cards would be easy to implement and cheap to operate. A patient cultivator could pay a fee to cover the costs of twice annual compliance checks - show their compliance letter and be given a card for her garden site. When the county learns of a possible ordinance violation the parcel address is used to send a letter to the cultivator (cultivators must agree to be responsible for mail for that parcel).

The cultivator would need to respond within a week with their current compliance proof. Like the patient's state card process, no record need be kept of the location once cleared.

If the cultivator doesn't respond to the Planning Department's letter, then a compliance officer or team can go out and investigate. If turned away the sheriff's office can help secure a warrant and enter the property.

There are three obvious benefits to this plan: it saves county employee time investigating the many cultivators who are working within the constraints of the county ordinances; it avoids the possibility of a federal subpoena leading to the county or a dispensary turning over the names of those people; it is a program that will transfer easily if recreational cannabis becomes law in 2016.

Unrelated Planning Violations

Many cultivators have expressed interest in qualifying for third party compliance letters but learned that even minor building code violations will preclude them from securing those letters.⁴ The county's well-founded concern about environmental damage and reduced quality of life is not addressed by building code violations. I believe that if that requirement in 7.126.020 (Q) (1)(a) is removed the county will find many cultivators qualifying.

³ Please see attached 10-16-13 article from the Press Democrat

⁴ 7.126.020(Q)(1) monitor compliance with state and local regulations including: (a) zoning, water quality, and building code requirements; (b) grading and riparian regulations; and (c) timber management practices;

Indoor Cultivation and the 99 plant rule

One of the biggest problems with the current cultivation ordinance is it is written in such a way that it makes all indoor growing impractical/impossible. Zoning should be opened up to include industrial and commercial areas, where warehouse type spaces can be used for indoor cultivation.

Indoor cultivation has also been made virtually impossible by the limit of 99 plants per parcel. While 99 plants may seem like a lot, and in the right circumstances can produce a large quantity of cannabis, indoor cultivation methods rely on growing many small plants rather than a few large ones. Plants grown indoors generally only produce a few ounces per plant, and therefore hundreds, even thousands of indoors plants are needed to produce significant amounts of marijuana. For this reason, it makes much more sense to regulate the amount of marijuana that can be grown by square footage rather than number of plants.

Outdoor Cultivation and the 99 plant rule

Dispensaries that have earned the "limited immunity" offered by the county should be allowed larger cultivation sites in carefully designated areas. The easy to monitor sites will offer significant economy of scale the dispensaries so patient medicine will remain

Determination of the Association For Standardized Cannabis to support the County of Santa Cruz's efforts to tax and regulate

There can be no reasonable good faith argument made that the patients who have been working with the county to work within the medical cannabis "industry" are doing what they can to help formulate smart regulations. The Association For Standardized Cannabis authorized the attached Op Ed⁵ in the Sentinel and paid several thousand dollars to advertise their support for the taxes just passed. As stated in the Op Ed, the shared goals of increased access by patients to safe and affordable medicine are clear. The means to those ends are within our grasp.



⁵ Please see attached Op Ed.

FOOTNOTE #1

DOJ official: California should strengthen medical marijuana oversight

By: Timothy M. Phelps, L.A. TIMES OCTOBER 14, 2014

California should strengthen its regulation of the medical marijuana industry if the state wants to avoid federal intervention, Deputy Atty. Gen. James M. Cole said Thursday in an interview with The Times.

Thursday that he is leaving the No. 2 job at the Justice Department, said he was proud of his efforts to take a softer approach to enforcement of federal marijuana laws. Cole sent a memo to all U.S. attorneys a year ago, including several in California who had aggressively targeted medical marijuana facilities, telling them to ease up on prosecutions of marijuana in states where it was legal.

But in the interview, Cole said states should still have a strong regulatory system in place for the use and sale of marijuana, something he said California lacks.

"If you don't want us prosecuting [marijuana users] in your state, then get your regulatory act together," he said. Cole added that California must do a better job of stopping marijuana growth on federal lands.

Unlike most other states that have legalized marijuana in some form, California has no statewide regulatory regimen, leaving it to counties and cities to create a hodgepodge of rules and protections.

Attempts to get marijuana regulation through the state Legislature have failed, but activists are hoping to get an initiative on the 2016 ballot.

The impending departure of Cole, who for four years has been the day-to-day boss of the department, adds to a growing leadership vacuum at the federal government's top law enforcement agency.

Jr. announced last month that he would leave as soon as a successor is confirmed, though the Obama administration has so far not announced a replacement.

At least half a dozen other top positions at the Justice Department, including the associate attorney general, the No. 3 job, are currently filled with acting appointees.

Cole said he was also proud of his initiation of a project to encourage nonviolent prisoners serving long drug sentences to apply for a presidential commutation, and prosecution of Credit Suisse Bank and individual Swiss bankers for helping U.S. citizens evade taxes.

He has also been closely involved in Holder's "smart on crime" initiative to reduce the prison population and the large proportion of African-Americans in federal prisons.

Cole said he expected to leave in early January, after someone has been chosen to take his place, on a permanent or acting basis.

FOOTNOTE #3

Mendocino County to turn over medical marijuana records

BY MARY CALLAHAN
THE PRESS DEMOCRAT
October 16, 2013, 8:02PM

[by Taboola](#)
[Promoted Links](#)

Mendocino County officials will turn over to federal prosecutors records from their now-defunct medical marijuana permitting program to comply with new grand jury subpoenas, the county counsel's office announced Wednesday.

It remains unclear exactly what documents are being relinquished to the U.S. Attorney's Office. County Counsel Thomas Parker said the Sept. 25 subpoenas seek "a limited number of unredacted county records."

"The Board of Supervisors directed that the records be provided to the federal grand jury as requested by the subpoenas," he wrote in a news release.

The move follows a year of legal wrangling over efforts by federal prosecutors to get their hands on paperwork from the program, which was scrapped in January 2012 under threat of a federal lawsuit after less than two years in operation.

Mendocino County Supervisor John Pinches said the decision to relent reflects the board's desire to avoid incurring any more legal fees, and a belief that much of the information is available through other means.

"If the feds want to keep coming after us, they can keep coming after us, but we're not going to keep spending money," Pinches said.

The medical marijuana program was adopted in March 2010 to clarify the county's policy under California's voter-approved Compassionate Use Act of 1996, Sheriff Tom Allman has said.

The county ordinance allowed individual growers to cultivate up to 25 plants and collectives to seek waivers for as many as 99 plants. Collectives had to pay \$1,500 for special permits, as well as monthly inspection fees of about \$500, and \$50 per plant for specialized zip ties identifying authorized plants.

Allman said close to \$830,000 generated from growers over the life of the program was channeled into his budget to cover the cost of administering it.

But the program was abandoned during a federal crackdown on marijuana cultivation that included raids on California medicinal marijuana clubs and those who grew weed for them.

Last October, several Mendocino County officials received grand jury subpoenas seeking "any and all records" related to the permitting program, raising fears of that applicants' personal information would end up with federal prosecutors.

County supervisors fought back, in large part to protect the identities of more than 90 people who had permits to grow pot for medicinal use, as well as the confidential medical and financial information they provided to participate.

In April, the county reached a settlement with the U.S. Attorney's Office that said county supervisors could edit personal identifying information from records, including names, addresses and parcel numbers.

But Parker said Wednesday the county will release unedited records to federal prosecutors under new, more narrowly drawn subpoenas.

Both he and the sheriff said they were prohibited by federal law from elaborating or identifying what records were being turned over. They also would not discuss whether the records contained any personal information on permit holders.

The news release quoted Mendocino County Board Chairman Dan Hamburg as saying: "The Board desires to protect the privacy of...participants. We are glad to see the current request for documents is much more narrowly drawn than the October 2012 request."

Hamburg has been outspoken about his desire to protect the privacy of participants. He was not available for further comment Wednesday.

It remains unclear who or what federal prosecutors are targeting in their probe.

(You can reach Staff Writer Mary Callahan at 521-5249 or mary.callahan@pressdemocrat.com.)

FOOTNOTE #5

Why local pot group backs the pot taxes

By Ben Rice

Special to the Sentinel

The Association for Standardized Cannabis has made the decision to endorse the city and county's medical cannabis tax measures on the upcoming ballot.

The county, in Measure K, and the city in Measure M, propose to add a 7 percent tax on the retail sales of cannabis at dispensaries. We are writing to explain why we have agreed to support this initiative.

We want to be clear: The ASC does not view a tax on cannabis medicine as a sustainable long-term funding mechanism for enforcement. However, we have chosen not to oppose these efforts in order to maintain our positive relationship with our local governments and maintain the forward momentum we have achieved. Our shared primary goals haven't changed — increased access to safe and affordable medicine, and, a rationale approach to enforcing laws that protect the environment and the quality of Santa Cruz life.

The ASC has worked tirelessly over the past several years with the Santa Cruz County Board of Supervisors on issues surrounding cannabis, despite there rarely being a clear-cut path to follow. The fact of the matter is that over the years, the Board of Supervisors and the Santa Cruz City Council have each gone to great lengths to accommodate cannabis patients and the cultivators and dispensaries that provide to those patients.

Now more than ever, we must work with the county and city to solve the issues that are inherent in lifting a prohibition that's existed for over 75 years in our country. The supervisors and council members have shown good faith in their efforts to support medical cannabis, and we must remain united with them to work towards sensible solutions for the future. The decision to support the cannabis tax legitimizes local cannabis business and is an absolute positive step to maintain a progressive approach on medical cannabis in Santa Cruz.

Ben Rice is a Santa Cruz attorney. The Association for Standardized Cannabis is an organization consisting of the majority of medical cannabis dispensaries and many of the cannabis plant cultivators in Santa Cruz County.

Alicia Murillo

From: cdbosmail@co.santa-cruz.ca.us
Sent: Friday, November 14, 2014 4:50 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 11/18/2014

Meeting Type : County Board
of Supervisors

Item Number : 69.00

Name : Steven Allen

Email : steven@allenpginc.com

Address : 246 Augusta Lane
Aptos, CA 95003

Phone : (831) 688-5100

Comments :
May 22, 2013

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Re: Cannabis Business Tax Implementation

Dear Members of the Board:

With the assumption that the overwhelmingly supported Measure K will be certified, I would encourage you all to consider funding additional Sheriff's deputies with the revenue. It seems more than reasonable to increase public safety measures in light of supplementary enforcement issues related to the growing cannabis industry.

I was asked by my 11 year old daughter as to why we placed signs around our home and business supporting the measure as, in her eyes, it represented a support of the legalization of drugs. I explained to her that the world was an ever complicated place and the thought is that people can accomplish good things with these additional revenues. In short, our basis hope is that additional law enforcement can regulate the intended use of legalized cannabis while making our County a safer place in which to live.

Sincerely,

Steven Allen
246 Augusta Lane
Aptos, CA 95003
(831) 688-5100
steven@allenpginc.com

69

-----Original Message-----

From: Alexis Jenkins [mailto:ajglitter@comcast.net]

Sent: Monday, November 17, 2014 9:53 AM

To: Neal Coonerty

Cc: Zach Friend; Rachel Dann

Subject: Measure K/Medical Cannabis Ordinance

In regards to Board meeting 11/18/14 and future meetings with decisions involving enforcement and changes to Ordinance, here are some considerations:

- strong enforcement for RR zoned properties which are completely restricted for commercial marijuana grows. Please keep restrictions in place.

- personal grows should have a number of plants along overriding the canopy size e.g. 6 plants with an maximum canopy of 100 square feet. This will help with neighborhood relations and result in fewer contacts and complaints to the county as well as help legitimate personal growers have a clear cut guideline. When the Sheriff is called, the deputies will be able to understand clearly what is accepted by our Ordinance. California state law restricts the number of plants to 6 (so do other locations such as Boulder, Colorado). Having a planning department inspector allow 24 personal plants is unacceptable. 24 plants are clearly meant for sale purposes. It also creates excess water and electrical use, strong smell and angry neighbors.

- Please note that water usage in areas like Bonny Doon also involve electricity as people are on wells and it takes electricity to pump the water.

- consider, in the long run, no commercial cultivation in RA areas. No medical marijuana grows even on acreage if it's a residential area and that includes RA and RR. Marijuana is still considered federally controlled substance so it's not like apple trees or lavender. Colorado now has only commercial grows in warehouses.

- One concern about outdoor grows in agricultural areas is that the land might compete with produce and food grows that are less profitable. Another consideration for warehouses in the future.

- LICENSING of all commercial medical cannabis cultivation. This might involve background checks and would bring in income to county. License should be linked to growers and to the property owners.

- Stronger enforcement and more consequences for property owners who lease and or rent to growers. In Bonny Doon this is a growing problem. What was expressed in terms of rampant pot grows at the community meeting last week is only a small percentage of what is is going on. Many people are frightened to speaking up.

- Better communication to help avoid illegals grows. For instance, when people get a marijuana card which I think allows them to buy medical marijuana and also to grow personally, perhaps on the card or instructions with the card, they could be notified that only one card and one grow per property is allowed no matter how many people with cards live on the property. There seems to be a misconception that you can have a personal grow for each person who has card on a property e.g. 5 students in a

69

residence or property, 5 cards and they think they can have 5 personal grows. That is not allowed under the ordinance.

-Under the better communication heading, the general public needs to know that an Ordinance exists and that it changes from time to time. They need to know how to access the Ordinance, how to understand it, perhaps an FYI page online, and a go-to person in the county who is up to date on the Ordinance. That person could also be helpful with a business license to grow.

-Ongoing training of all agencies personnel who need to understand the Ordinance. Our neighborhood had many contacts last spring/summer and received misinformation repeatedly both in person and online especially in the Planning/Zoning department, although truly many employees that should know the details, do not.

- Quality of life issues include smell and although we kind of laugh at this, it's not funny to be surrounding by very strong smelling marijuana grows.

Thanks for your consideration, A. Jenkins

BAY LEAF COLLECTIVE

3301 PORTOLA DRIVE
SANTA CRUZ, CA 95062

November 17, 2014

Dear Board of Supervisors,

As you contemplate changes to Chapter 7.126 of the Santa Cruz County Municipal Ordinance we implore you to consider some of the following amendments.

Permit on-site cultivation and production at Dispensaries:

Due to the current version of the municipal code dispensaries and cultivations are not permitted at the same site. In fact, cultivation businesses are permitted only outside both the rural and urban service lines which results in these activities being pushed to the fringe of the county, far removed for proximity to first responders and county staff. Under the current ordinance production of medical cannabis related products are only allowed at cultivation sites. Allowing on-site cultivation and production of cannabis at dispensary sites would result in multiple benefits to both the County and Medical Cannabis Patient.

Benefit to County:

Currently the Santa Cruz County Planning Department has been taxed with the responsibility of “closing the loop” between dispensaries and the cultivation sites that supply them. By permitting dispensaries to cultivate and produce medical cannabis on-site the county will be able to ensure compliance of dispensary, cultivation, and production under one roof. There is no better way to ensure a “closed loop” system of operation. County code enforcement and third party compliance organizations will not have to traverse to the far reaches of the county to monitor these activities. Many localities such as the City of San Jose have currently revised their medical cannabis related ordinances to permit on-site cultivation and product because of the increase in transparency, ease of enforcement and compliance.

Bay Leaf Collectives has had the opportunity to speak with the Santa Cruz County Planning and Building departments, which both agree that from a “life safety” standpoint, indoor cultivation and production of medical cannabis is best conducted in a Commercial building. Commercial buildings, such as the one located at 3301 Portola Drive, are easily secured because of the construction and composition of the building itself, are equipped with fire sprinkler systems, can be monitored remotely by utilizing security cameras and security subcontractors such as First Alarm Security Services, and can safely support the power needs associated with the use.

Benefits to Patients:

By allowing the on-site cultivation of medical cannabis at the dispensary site Collectives such as Bay Leaf can give their patients the opportunity to participate in the cultivations process. Patient participation has two benefits, the first being a means of teaching patients the safest and most environmentally conscious ways of producing their own medical cannabis. Second patients can participate in the cultivation process and receiving credits to be applied towards their medicine. The contemplation of membership contribution to the cultivation process was discussed in the San Diego Appellate case of *The People v. Jovan Christian Jackson* (2012) Case number D058988. Were the court held that, “the collective or cooperative association required by the act (MMPA) need not include active participation by all members in the cultivation process but may be limited to financial support by way of marijuana purchases from the organization.”¹ Although participation is not a requirement Bay Leaf Collectives would like to provide members this opportunity, which would be difficult if not impossible to do if their membership cultivation took place at a remote location in the Santa Cruz Mountains.

On-site cultivation and production of medical cannabis products will give dispensaries the ability to ensure that their patients are getting cannabis that is produced without toxic chemical solvents. There are currently several alternate methods for producing medical cannabis products that do not involve the use of toxic and volatile solvents. One such method is the use of Supercritical CO2 Extraction. Companies such as APEX Supercritical have been producing botanical extraction units that are extremely sophisticated and safe which produce high quality cannabis extracts that are devoid of residual solvents and toxic chemicals. Supercritical CO2 extraction is already a standard extraction method for the food, dry cleaning and herbal

¹ *People v. Jovan Jackson*, 210 Cal.App.4th 1371 (2012)

supplement industries. It is a common food additive as well. In fact, CO2 is used to produce carbonated soft drinks, in the removal of caffeine from coffee beans in order to make decaffeinated coffee, as an environmentally friendly solvent for dry cleaning, and as an extraction solvent when producing essential oils. Supercritical CO2 is also common when pesticides and metals are extracted from agricultural crops.

In fact the California Appellate court addressed the distinction between manufacturing concentrated cannabis with chemicals (e.g. using alcohol, butane, or another chemical solvent) as opposed to manufacturing it naturally (e.g. using pressure, screening, ice water/freezing, butter, or vegetable oil). Naturally manufactured concentrated cannabis is certainly protected under the medical cannabis laws, whereas chemically manufactured concentrated cannabis are not. More specifically the Court stated: Section 11358 of the California Health and Safety Code could potentially apply to any number of possible alternative methods for producing concentrated cannabis... Section 11358 would be appropriate, for example, if the resin was physically extracted from the marijuana plant through pressure, through a screening process, or by using an ice water method to produce the concentrated cannabis. Similarly, section 11358 would properly apply to the production of concentrated cannabis if the method used was instead by leaching the resin from the plant material by dissolving it in a nonchemical lipid extractor, such as butter.²

Strike the 99 plant rule for indoor cultivation:

Although some counties have successfully implemented the “99 plant rule” it is important to distinguish between indoor and outdoor cultivation. Indoor cultivation does not lend itself to the same gestation period as outdoor cultivation, more specifically indoor plants are grown for a shorter period of time resulting in significantly less cannabis per plant. The significant decrease in cannabis yield requires a higher number of plants to meet patient needs.

The basic premise behind the “99 plant rule” is tied to concerns The Santa Cruz County Sheriff department has with production exceeding demand. Bay Leaf Collectives can utilize its state of the art software to ensure plant counts do not exceed the state guideline of 6 mature or 12 immature plants and 8 ounces per patient giving Bay Leaf the ability to individually tag each

² **People v. Bergen**, 166 Cal. App. 4th 161 (Cal. Ct. App. 2008)

plant with a patient identification number; thereby, ensuring that production is not in excess of demand and is in full compliance with state guidelines.

Strike the parcel size requirement for indoor cultivation:

Although parcel size and proximity buffers make sense as it relates to outdoor cultivation, those same restrictions are unnecessary for indoor cultivation. Indoor cultivation can be done in a controlled environment and the utilization of sophisticated odor management techniques can eliminate nuisance complaints associated with cultivation and production. Bay Leaf Collectives has experience operating both cultivation and production and utilizes a combination of carbon filtration and air recirculation to eliminate odors.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Avramidis", with a large, stylized flourish above the name.

Michael Avramidis
Corporate Counsel for
Bay Leaf Collective

From: Tom Clarke [clarke.tj@comcast.net]
Sent: Monday, November 17, 2014 1:26 PM
To: John Leopold; Zach Friend; Neal Coonerty; Greg Caput; Bruce McPherson
Subject: Measure K

To: Santa Cruz County Board of Supervisors

Subject: Use of Measure K Funds

Supervisors,

When I voted for Measure K it was my understanding a good portion of the funds raised would be used by the Sheriff's Department to enforce local marijuana regulations, especially the illegal growers in the Santa Cruz Mountains and Bonny Dune. Now I hear that is not the case.

After the November election Supervisor Neal Coonerty was quoted in the Santa Cruz Sentinel saying "The measure will give us those tools to do enforcement, to make sure those things are dealt with in accordance with the laws in the books right now." I understand a letter recommending how these funds will be used includes nothing for the Sheriff's Department. How are these laws going to be enforced if not by the Sheriff's Department?

I object! Deliver what you promised when I voted for the Measure!

Thomas J. Clarke
144 Crest Drive
La Selva Beach, CA 95076
(831) 761-1513

69

Alicia Murillo

From: cdbosmail@co.santa-cruz.ca.us
Sent: Monday, November 17, 2014 10:09 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 11/18/2014

Meeting Type : County Board of Supervisors
Item Number : 69.00

Name : Russ Mackey
Email : Rmackey411@comcast.net

Address : Bonny Doon
Phone : Not Supplied

Comments :

Russ Mackey
Bonny Doon
Santa Cruz County Board of Supervisors agenda for Nov 18, 2014, #69
Measure K, Cannabis Ordinances

Dear Supervisors,

Thank you for continuing to work on crafting cannabis regulations (Chapter 7.126 of the County Code).

For many (if not the vast majority) residents of the rural unincorporated county, the issue is not about "MEDICAL marijuana", "the need for more MEDICINE", or even most "small PERSONAL use marijuana grows".

Our issue is the tremendous impact upon our daily lives of the widespread large scale production of marijuana in residential areas. We are overwhelmed by the STENCH of marijuana growing and curing operations, concerned about the use of environmentally toxic chemicals and gases used to promote growth of the plants, clear-cutting, crop protection and industrial-level water usage. Should we wish to sell our homes, we will be required to list the odor and other nuisances impacts of marijuana farming in our residential areas, and most likely face a reduction in property value.

County Code Section 13.10.644, Animal raising - Family, addresses concern associated with livestock in rural residential areas. In part it reads;
"The following regulations shall apply in all cases where family animal raising (as defined in SCCC 13.10.700-A) is allowed:

(A) Family animal raising shall be conducted in a manner that prevents

the accumulation of excrement or spread of disease, flies, dust and erosion or offensive odors."

Clearly, the impact of noxious odors is well understood where animals are involved; the impact of marijuana odor is no less offensive to the community.

Marijuana growers seek from the County that which the county cannot grant - immunity from prosecution (which is also possible under Federal and/or State laws). All the county can offer is the LOCAL intention to not prosecute - an offer to "look the other way" if county regulations are followed. The County needs to craft strong regulations to eliminate the current untenable impact of unregulated marijuana growing in the residential areas of the rural county. All growers need to conform to County regulation.

The growers and sellers have frequently played the "sympathy card" during the debate over County regulation. They focus repeatedly on the "need for more medicine for their patients", while the terrible impacts on the residents and environment is largely ignored.

The issue of marijuana growing is quite similar to the fairly recent debate and lawsuits over the issue of logging in Santa Cruz County. Now, basically, the state regulates how logging can be conducted and the County determines where it is allowed by through land use regulation. Marijuana growing needs to be similarly regulated.

I, and perhaps the vast majority of rural residents, do not care if marijuana is used as a medicine or for recreation, casually or habitually. That is the choice of the user. In all likelihood recreational use will be allowed in California in the near future. Strong local regulation of marijuana GROWING is needed.

The marijuana growing regulations are different in the Second Supervisorial District than in the rest of the County - many of us in the other districts would prefer to be covered by the Second District regulations while a final set of regulations are developed.

Growers clearly wish to receive the County's acquiescence to grow marijuana, and at the same time wish to remain anonymous. Growers do not want a paper trail of who is growing. Growers wish to avoid personal disclosure. Effective regulation requires full disclosure and documentation.

IF MARIJUANA GROWING IS TO BE ALLOWED BY THE COUNTY:

- Growing needs to be controlled. A permit must be obtained from the county for ALL marijuana growing, commercial and personal use..
- Environmental regulations need to be defined and enforced.
- Nuisance issues - odor, screening, traffic, water and lighting, crop

protection, etc must be addressed.

- Grows that impact neighborhoods must be removed and/or relocated where they will not impact residential areas. Agriculture belongs in agricultural areas.
- The County of Santa Cruz has the ability to control where marijuana is grown, and it must craft regulations that end the current conversion and use of residential property for growing marijuana.
- Measure K was approved by a huge majority. That majority voted for enforcement of strong marijuana regulation.

With well crafted regulation, growers will be able to make a profit, abundant marijuana medicine will be available for patients and also recreational users, the environmental damage will be reduced, and the impact to rural neighborhoods can be eliminated.

Thank you for your efforts to date, and please continue working on the Local Cannabis Ordinance to address the impact to neighborhoods - impact that exists, in part because of the current patchwork of often conflicting Federal and State regulations.

Greenway Compassionate Relief, Inc.

140 Dubois St. Santa Cruz, Ca. 95060 831-420-1640

Attention: Santa Cruz County Board of Supervisors

I am an owner of Greenway Compassionate Relief in the city of Santa Cruz. We have been in business for 10 years and our focus has always been to provide medication to patients who need it. Our mission has often been misunderstood and our struggles to survive for the good of patients has not been an easy one--but we are still here and intend to remain here for the good of the many patients that we serve. Based on my experience I believe that I have some good insight to share with you.

After listening to the expressed views of several of those opposed to medical cannabis grows, I think it is possible to craft an ordinance that addresses the NEEDS and VIEWS of both sides of the issue. By that i mean all of our local Medical Marijuana Dispensaries and those who object to or fear the effects of cannabis businesses in their neighborhoods.

Many neighbors in rural areas and in more country neighborhoods like Bonny Doon and Ben Lomand have objected to smell, traffic, water use and the general lack of regulations to monitor and protect the environment. In response, the Board has limited commercial grows sponsored by local MMD's to 99 plants--within defined canopy limits. Unfortunately, this move GUARANTEES that there will be more growers, more activity, more smell, more water usage and less assurances of growers using best practices just due to shear numbers--because it will take several hundred 9 9 plant grows to fill the needs of medical cannabis patients in Santa Cruz County.

#69

The OBVIOUS solution to this matter, which will address the needs and issues of both opponents and proponents is this:

- 1) Allow MMD's to sponsor (10-20) outdoor/greenhouse grows that have only reasonable canopy limits and NOT plant count limits. Allow veg areas to exist separately to facilitate strain consistency or the benefit of patients and allow warehouse grows in industrial areas where there will be no impact on others.

- 2) Require those larger commercial grows to submit to a third party verification of "best practices" in the areas of environment, water usage, grading, fencing, security, views and privacy. The Board can provide input or approval on the list and definition of "best practices" to insure that the needs of non-growers are addressed as much as possible. **CHARGE FINES FOR GROWS THAT ARE NOT THIRD PARTY CERTIFIED. REQUIRE MMD'S TO ENFORCE BEST PRACTICES AND THIRD PARTY CERTIFICATIONS.** Ask that "best practices" include a "low neighborhood impact plan" that is implemented as part of the third party certification.

- 3) Please do not discriminate against the two MMD's in the city of Santa Cruz. Please allow us to have access to certified growers who produce medication for our patients in the unincorporated areas of the county. We need this to insure that we have an adequate supply of medication for our patients.

We need to remember the following as well:

Small and large horse, dairy, sheep and goat farms, apple, berry, vegetable and tomatoe growers all have the possibility of creating negative impact on their neighbors and on the environment due to water usage, environmental concerns, noise, smell, flies, traffic and careless grading. Since medical cannabis is fully legal, it cannot be

treated with more restrictions than other farm operations without breaking the law by violating the rights of the participants.

Our medication does good things for thousands of patients and the majority of voters have already made it clear that cannabis will be fully legalized in 2016.

It is important to be fair, mindful of the current and future value of the cannabis crops and make regulations that are no more restrictive than current guidelines for livestock, dairy and produce operations around the county.

Please make your decisions on your ordinance that makes sense for the patients who need this medication, for the population of the county at large as well as for the neighbors who have legitimate concerns that must be addressed.

Thank you for taking the time to read this!

Sincerely,


Lisa Molyneux

CEO Greenway Compassionate Relief

Alicia Murillo

From: cdbosmail@co.santa-cruz.ca.us
Sent: Monday, November 17, 2014 2:48 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 11/18/2014

Meeting Type : County Board
of Supervisors

Item Number : 69.00

Name : Deborah Elston

Email : elston13@earthlink.net

Address : 323 Majors St
Santa Cruz, CA 95060

Phone : 831-423-0745

Comments :

Dear Board of County Supervisors,

With the passing of Measure K, I realize you will be looking at distribution of money that will be generated from this measure as well as implementation. I'm hoping to see budgeted prevention measures for youth education of how Marijuana can damage their precious brains.

Also I'm concerned about enforcement of Measure K and compliance in the County. Two things come to mind: The letter written by Supervisors Coonerty and Leopold concerns me because they don't even mention having the Sheriff's involved or maybe they are an after the fact if something goes wrong they can be called out. This enforcement has to be a TEAM effort with all three county departments - especially planning and sheriffs. Sheriff's Department should have someone specifically trained and on the ready to enforce Measure K compliance. You cannot be calling someone off the beat to answer this inspection call. There are limited amount of resources answering neighbors calls as it is. If you pull someone off of a beat then you are underserving the public on the everyday calls for service.

Second comment I brought up about there being at least 6 Marijuana delivery services located in the city of Santa Cruz. It was stated to me that there were not going to be any delivery services allowed in the County. How will that be enforced?

I know this is a process that will all have to be worked through and I'm hoping that you will engage the public voice and oversight. Maybe even consider what the city has done with having an appointed balanced oversight committee to review this twice a year.

Thank you for your time and consideration.

Alicia Murillo

From: cdbosmail@co.santa-cruz.ca.us
Sent: Monday, November 17, 2014 4:01 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 11/18/2014

Meeting Type : County Board of Supervisors

Item Number : 69.00

Name : Colin Disheroon

Email : Not Supplied

Address : Not Supplied

Phone : Not Supplied

Comments :

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Re: Measure K and Santa Cruz County Cultivation Ordinance

Respected Members of the Board,

Thank you for your diligent work in creating an ordinance that works for the County of Santa Cruz. Your proactive approach to Measures K and L is certainly a good start towards reducing the impact caused by unregulated Medical Marijuana cultivators in the county. However, I believe that there is more that needs to be done in order to effectively control the over-expansion of cultivation sites, while at the same time continuing to allow for safe and affordable access to medical marijuana patients in Santa Cruz.

Being a Santa Cruz County resident for many years, I have seen first hand the impacts of poor growing practices in the mountains, and I believe that something needs to be done to not only extract taxes from the dispensaries, but also from those who are creating much of the impact. In addition, I believe that the County needs to be very aware of the real threats that are approaching our small community. Pharmaceutical, Tobacco and Alcohol industries are VERY interested in this industry and will be doing everything in their power to get into and control this market place IF something is not done ahead of time to prevent it. Please **DO NOT** turn a blind eye to this! Santa Cruz is home to CCOF and the Organic Movement, and is the starting point for the Medical Marijuana Movement through WAMM. Please do your BEST to NOT ALLOW BIG PHARMA, BIG ALCOHOL AND BIG TOBACCO to take this

industry away from the hands of the PEOPLE who have broken their backs, risked their freedom, and dedicated their lives to it.

Please consider doing the following:

1. Allowing larger scale Medical Marijuana cultivators who are filed with the State of California as Non-Profit organizations
2. Amending the Cultivation ordinance to fall into alignment with Measures K and L, in order to extend the 7% business tax onto any sale of marijuana, whether from dispensary to patient, or grower to dispensary.
3. Look to Mendocino County's "Measure S" Community Bill of Rights Ordinance for guidance on how to Self-Regulate and protect its environmental and economic integrity
4. Allow Tax-Paying Medical Marijuana Businesses to cultivate in warehouses and commercial areas

Please make smart decisions for the future of Santa Cruz, and keep this industry locally owned and operated!
