

Thursday, January 19<sup>th</sup>, 2012, 6:00 p.m.

## Draft Meeting Minutes

Council Chambers, City Hall, One Frank H. Ogawa Plaza

### Members:

Dale Gieringer	District 1	Vacant	District 7
Vacant	District 2	Vacant	At Large
Vacant	District 3	Leslie Bonett	Mayor
James Anthony	District 4	Vacant	City Auditor
Matt Hummel	District 5	Joe DeVries	City Administrator
Dhar Mann	District 6		

Available on-line at: <http://www.oaklandnet.com/measurez>

### DRAFT MINUTES

#### A. Roll Call and Determination of Quorum

*Members Gieringer, Anthony, Hummel, Mann, DeVries, and Chairperson Bonett were present.*

#### B. Open Forum / Public Comment

*There were no speakers under public comment.*

#### C. Review of the Pending List

*No changes were made to this list.*

#### D. Approval of the Draft Minutes from the Measure Z Committee meeting of November 17<sup>th</sup>, 2011.

*The minutes were approved by consensus.*

#### E. Reports for Discussion and Possible Action

*Vice Chair Bonett asked to move item E4 to the top of the action item agenda and also noted that there are vacancies that need filling. Joe DeVries reiterated the basic rules*

Persons may speak on any item appearing on the agenda; however a Speaker Card must be filled out and given to a representative of the Measure Z Commission. Multiple agenda items cannot be listed on one speaker card. If a speaker signs up to speak on multiple items listed on the agenda, the Chairperson may rule that the speaker be given an appropriate allocation of time to address all issues at one time (cumulative) before the items are called. All speakers will be allotted 3 minutes or less – unless the Chairperson allots additional time.

♿ This meeting is wheelchair accessible. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meetings of the Measure Z Commission, please contact the Office of the City Clerk (510) 238-3612. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility. In compliance with Oakland's policy for people with chemical sensitivities, please refrain from wearing strongly scented products to events.

Questions or concerns regarding this agenda, or to review any agenda-related materials, please contact the Measure Z Commission at (510) 238-3301.

regarding appointments to Boards and Commissions and outlined the process for the audience. (Item E4 now appears in the minutes as item E1)

1. A vote to have an Interim Vice Chair to serve until the March election of Officers.

Vice Chair Bonnet noted that Chairperson Lee resigned his post on the committee at the November meeting leaving the Chairperson position vacant and there is nothing in the bylaws addressing this. She suggested that a vote could be made to approve her as Chair until the next election or elect another.

James Anthony made a motion that the Committee elect Vice Chair as Chair. The motion passed unanimously leaving the Vice Chair position vacant.

Member Anthony made a motion that Member Hummel be elected Vice Chair. This motion also passed unanimously.

2. A continuation of the discussion of the City's Smoking Ordinance and the City's current enforcement procedures.

Serena Chen for the American Lung Association (ALA) was invited to speak with the committee regarding this topic. Joe DeVries suggested that Member Gieringer frame the issue for the audience and the guest speaker. He explained that while there is no evidence that second hand marijuana smoke is harmful, some cities, including Oakland, have included marijuana smoke in their smoking ordinances making it difficult for marijuana smokers to arrange events, meetings, or functions within the City of Oakland no matter how well ventilated. He noted that San Francisco, Sebastopol and some other cities have exempted marijuana smoke from their ordinances.

Serena Chen was introduced by Joe DeVries and he explained that the American Lung Association was involved in the passage of Oakland's smoking ordinance.

Ms. Chen opened by stating she supported California's Medical Marijuana Law because she recognizes the need for many patients. Over the past twenty years that she has worked at the ALA the types of complaints they received has changed.

For example, when laws banning smoking in the workplace were passed, the calls shifted to complaints about smoke in bars and restaurants. Once the laws passed banning smoking in bars and restaurants passed, the calls shifted to complaints about smoking in private residences (especially apartment complexes.) People don't want to breathe other people's smoke.

Now, over half of her complaints are about marijuana smoke. People do not want to breathe other people's smoke, regardless of what type of smoke it is. She noted a project she is involved in Richmond dealing with public housing. Those tenants are complaining equally about marijuana smoke.

*Marijuana smoke has been found by the California Office of Environmental Health Hazard Assessment to contain toxins known to cause cancer in humans. On June 19<sup>th</sup>, 2009 marijuana smoke was added to the list of known carcinogens—the Prop 65 list.*

*The Office studied the components of second hand marijuana smoke and found it contained much the same toxins as tobacco smoke. However, smoking is the only form of marijuana consumption that does cause harm to other people. The ALA doesn't have a problem with other methods of consumption such as vaporization. She also noted that many people roll marijuana into "Blunts" which also contain tobacco which is equally problematic.*

*Over the years the ALA has looked at ventilation studies to determine if it is possible to reduce or eliminate the negative components of second hand tobacco smoke and they have found there are no ventilation standards that can protect people from other people's smoke if they are in the same building.*

*She also noted that the Marin Ordinance that was recently pulled was not pulled because of marijuana smoke but actually because of incense which was not clearly stated in the article.*

*She noted the study of people smoking marijuana casually was not a study of second hand smoke—only first hand smoke. She also noted that the study of third hand tobacco smoke is just underway and to exempt marijuana smoke when the studies are still discovering new facts would be premature.*

*Joe DeVries asked her to clarify third hand smoke. She explained that third hand smoke is the residual toxins left behind after the smoke has dissipated. Toxins left on furniture, in clothes, and carpeting that leave a smell but no visible smoke. According to a study by Philip Morris, the level of toxicity in a room three weeks after smoking tobacco had occurred was the same or higher than when the tobacco was actually being smoked.*

*Member Gieringer asked about studies on residual marijuana smoke specifically because he noted that tobacco smoke seems to linger much longer than marijuana smoke which seems to dissipate quickly. Ms. Chen stated that she was not aware of any studies such as this.*

*Ms. Chen went on to note that when you combust any product you create particulate matter that ends up in the air. She cited the "Spare the Air" days that are called for because of the particulate in the air which is damaging to the lungs.*

*Member Gieringer went on to discuss the study that led to the prop 65 warnings about marijuana smoke. He noted that the law requires a warning when carcinogenic materials are present, not an outright ban on their use. He went on to note that if marijuana smoking were to be allowed in a particular area with Prop 65 warning signs posted then consumers would have a place to gather to smoke if they chose and non-smokers would be warned about the risk and not be impacted by it. He also sited studies by expert*

researchers in regard to lung cancer that showed no increased risk and a possible decrease in risk for lung cancer from heavy marijuana use. He asked if it was safe to conclude that since first hand marijuana smoke was so benign compared to tobacco, couldn't it be assumed that second hand marijuana smoke would also be benign in comparison to second hand tobacco smoke?

Ms. Chen pointed out that the real dangers of second hand smoke are overwhelmingly not cancer but heart disease and stroke. Of the 53,000 deaths per year associated with second hand tobacco smoke, 43,000 (over 80%) die from heart disease and stroke. Unlike the smoker who inhales the toxins into their lungs, the second hand smoker is impacted by the particulate matter in the air that affects their circulatory system.

She also cited studies of the blood flow of persons exposed to second hand smoke—it shows a decrease up to one day later.

Member Gieringer also noted that the amount of particulate generated by a marijuana smoker is much less than a tobacco smoker because they smoke far less marijuana per day.

Chairperson Bonnet opened the floor up to other members. Joe DeVries asked where most of the complaints the ALA receives come from--houses or apartment buildings? Ms. Chen noted complaints come mostly from multi-unit dwellings. She went on to point out that as people are exposed less to smoke in public or at work, they are more sensitive to smelling it at home.

Joe DeVries asked if this was really an enforcement issue since OPD is stretched thin and cannot respond to smoking complaints. Ms. Chen noted that the ABAT (Alcohol Beverage Action Team) does send warning letters to store owners whom they receive complaints about.

Chairperson Bonnet asked about whether the complaints they receive are acknowledging an actual health effect. Ms. Chen confirmed that they do hear about people having difficulty breathing, watery eyes, and other reactions to smoke but people feel there are more laws against tobacco than marijuana especially when the marijuana smoker has a medical marijuana I.D. card.

Member Hummel asked whether there was a cultural aspect to the complaints (people who feel marijuana is morally wrong) and Ms. Chen responded that she does not get those types of complaints; people are really complaining about the impact on their immediate health. Member Hummel went on to note that there has been a decades long propaganda campaign against Marijuana that has increased public fear.

Joe DeVries noted that there were two separate issues the committee was looking at: a) smoking in one's home or multi-unit dwelling and b) people smoking in clubs or entertainment venues. Since the committee was mostly concerned with Measure Z type

clubs, he asked if an argument could be made that regulations be developed for clubs and dispensaries.

Ms. Chen pointed out that when she speaks with Public Health advocates will ask her why it is that marijuana consumers feel the need to advocate for smoking (combusting) marijuana when there are other safe ways to ingest it such as vaporization.

Joe DeVries noted that if the ALA were to launch a pro-vaporization campaign it would really move marijuana into the mainstream. He again asked if there was an argument to modify the City's smoking ordinance to allow for places where people could voluntarily smoke marijuana. Ms. Chen noted that the ALA could not condone anything that impacts other's with second hand or first hand smoke. The ALA doesn't condone anyone breathing in any smoke from any combustible substance.

Joe DeVries noted that he invited the ALA because he wanted the committee to hear their perspective. Member Gieringer agreed and thanked Ms. Chen for her input and noted that he did not support exposing anybody to anything involuntarily that they did not want to be exposed to. He went on to point out that this did not stop the committee from suggesting that the City allow for clubs where people could go voluntarily as long as any impact on others was mitigated. Ms. Chen noted that the ALA would likely remain neutral on such a policy.

Member Hummel asked about levels of toxicity comparisons such as walking down a street full of cars versus walking into a room where people were smoking. Member Gieringer stated he was unaware of any studies on second hand marijuana smoking.

The Committee again thanks Ms. Chen for her presentation. Chairperson Bonnet asked what the committee wanted to do next. Member Gieringer was still curious about the Public Health Department's position and still wishes to come forward with a proposal. Chairperson Bonnet agreed that the item should be continued and the Public Health Department should be invited.

It was clarified that any proposal the committee forwarded would deal specifically with clubs, special events, and commercial spaces—not private residences.

3. A discussion of the Report provided to the Public Safety Committee on December 13<sup>th</sup>, 2011.

Joe DeVries noted that very few people came to the Public Safety Committee meeting other than the former Chair—Rich Lee. He noted that the report was well received and that Council member Kaplan was interested in sponsoring a resolution. However, due to the City's current efforts to license four new dispensaries, it was recommended that a confidential memo be developed for the City Council to review as to the potential legal impact of a resolution condemning the federal crackdown.

*Richard Lee addressed the committee stating that the current status of “don’t ask don’t tell” policy regarding Measure Z Clubs had been working but with the federal action more and more cannabis may be distributed in an unregulated manner as licensed clubs are forced to shut their doors. He suggested regulations may be in order because if all the medical dispensaries are closed, the City would be back to the pre-2004 days of unregulated clubs springing up. His own dispensary had to operate as a Measure Z Club due to pressure on his landlord. He encouraged the committee to continue pushing for the regulation of Measure Z clubs.*

*Member Gieringer asked whether the discussion on licensing was impacted by the 1000 foot rule because of the number of schools and churches in Oakland. Richard Lee noted that many clubs are impacted by this since anytime a couple of kids are located anywhere it gives a reason for people to oppose licensing dispensaries.*

*Kathryn Parker also spoke to the committee. She noted that Council member Kernighan stated at the committee that she felt there was too much on the Public Safety Committee’s plate to take up the issue of redefining private as was discussed in the report.*

*Joe DeVries asked if this item should be placed on the pending list awaiting the City responding to the Committee’s recommendation. Chairperson Bonnet suggested it stay on the agenda since the committee was awaiting a response from the City.*

*It was decided that it would be placed on the agenda as a continuation of the discussion of the federal crackdown on marijuana dispensaries and the City Council’s response to it.*

4. An update regarding Committee Members’ terms of office, reappointment, and process regarding vacancies.

*Joe noted that a couple of committee members still needed to send in their reappointment letters. Member Gieringer asked how soon we would see new members appointed. Joe DeVries stated he hoped there would be new members appointed by February but also that two members just resigned this week so there are even more new vacancies.*

#### F. Announcements

*Member Gieringer announced that an initiative to regulate medical marijuana was heading for the state November ballot that would attempt to regulate the state’s distribution of medical marijuana in a way similar to the Alcohol Beverage Control Board. The state system would pre-empt local regulations that are inconsistent and would provide a good deal of legal protection for dispensaries and would expand distribution to allow for distribution of edibles and of for profit enterprises (not just co-ops and collectives.) More information is available at [www.regulatemedicalmarijuana.org](http://www.regulatemedicalmarijuana.org)*

It was noted that the Marijuana Activist meeting was taking place directly following the meeting at 1950 Broadway.

Last, Jill Brogan announced that there would be a medical marijuana patient's only event on February 10<sup>th</sup> at Oaksterdam on the second floor. It will be a movie screening of "Smoke Screen."

G. Adjournment

*The meeting adjourned at 7:30pm.*