

Thursday, June 21st, 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
Charles Mintz	District 2	A. Kathryn Parker	At Large
Sierra Martinez	District 3	Leslie Bonett	Mayor
James Anthony	District 4	Vacant	City Auditor
Matt Hummel	District 5	Joe DeVries	City Administrator
Marlon Hendrix	District 6		

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

DRAFT MINUTES

A. Roll Call and Determination of Quorum

Members Hummel, Martinez, DeVries, Parker, Hendrix, and Chairperson Bonett were present. Members Gieringer and Anthony were excused. Chairperson Bonett welcomed Marlon Hendrix, the newest appointee from District 6. Marlon explained that he has been an Oaklander all his life and has watched the marijuana movement's evolution since day one and is very interested in seeing Measure Z implemented and the whole issue move forward.

Members Gieringer and Anthony were excused.

B. Open Forum / Public Comment

There were no public speakers.

C. Review of the Pending List

Joe DeVries noted that having a conversation with the District Attorney is still on the pending list but it is his intent to have the District Attorney's Office have a representative at a future meeting.

Member Hummel asked if item 8 could have its date changed to 2012 (from 2011) and be edited—remove the last four words as well so the item reads: Extended discussion regarding “direction” of Measure Z Committee.

D. Approval of the Draft Minutes from the Measure Z Committee meeting of May 17th, 2012.

After some conversation about the level of detail within the minutes, they were passed by consensus.

E. Reports for Discussion and Possible Action

1. Monitoring OPD's implementation of the Measure Z provision making private, adult marijuana offense arrests the lowest law enforcement policy including a review of Oakland compliance / non-compliance policies with the Drug Enforcement Agency (DEA)

Lt. Mike Poirier submitted a report (attached) and appeared before the committee to discuss the item. He reviewed the report with the committee and followed the same format as years past. He also included the Information Bulletin that was developed last year.

Chairperson Bonett opened by asking about the impact the state law change has had on Oakland arrests. Lt. Poirier noted that the total number of arrests is lower than last year. After adding the total number of arrests for any cannabis offense, it was clarified that 20% of all drug arrests in the city were cannabis related.

Member Martinez thanked Lt. Poirier for compiling the data and asked if there was a breakdown of public versus private offenses. He also asked if there was a way to capture that data at the time of arrest. Lt. Poirier noted that he could not do that without looking at each individual arrest report but based on the analysis last year overwhelmingly that the arrests were public.

Member Parker asked if he could speculate as to the reason for the radical drop in arrests. Without hard analytical data, Lt. Poirier noted that there was a seven percent increase in violent crime and at the same time a reduction in officer staffing levels which would lead to fewer resources being spent on non-serious offenses because officers are forced to address the more serious crimes. Arrests in general for narcotics offenses are down.

Chairperson Bonett asked about incidents where officers made contact with an individual in possession of cannabis but no arrest took place. Lt. Poirier noted that he could not track that either without looking at individual officer's log books.

Joe DeVries mentioned that there was an interest in evaluating cultivation cases since they are likely private (people don't generally grow in public). With only 8 cultivation arrests last year, this data should be easy to examine. Lt' Poirier promised to give a summary of those cases at the next meeting.

Member Parker noted some discrepancies in the numbers and Lt' Poirier explained how that could happen—multiple people arrested on one charge or one person arrested on multiple charges can skew the number. Chairperson Bonett asked if there was a way to compare cannabis arrests to other drugs and break down the raw numbers more specifically to see what drugs are the biggest problem in Oakland. Lt. Poirier noted that the narcotics unit may have more detail but those are not published in the citywide reports.

Joe DeVries noted that the numbers show cannabis arrests have equated to about 20% of all drug arrests over the past few years based on the data. Lt. Poirier went further to say that if one could calculate the total number of times an Oaklander uses cannabis based on an average of 5% of the population using cannabis once a week for a year, the total number would be in the

millions with only a couple hundred arrests and therefore it indicates that OPD does in fact honor the lowest law enforcement priority.

Based on that notion, Joe DeVries pointed out that OPD is not interested in what people are doing in private (in regards to cannabis use) and that it may be helpful for OPD and the Committee to promote a culture of decorum among cannabis users that encourages them to keep it private. In other words, tell people that they are not protected if they are walking down the street smoking a joint just as they are not protected if they are walking down the street drinking a beer. Neither behavior is tolerated or acceptable in many communities, especially those communities that have been heavily impacted by the underground drug economy.

Member Hummel noted that many want to change the culture to make public cannabis smoking a normal activity. He wants to take the “moral shame” out of cannabis use. However, he can appreciate discretion and working within the current laws is a better approach than egging on officers by smoking it right in front of them.

Robert Garcia, a public speaker approached the podium and stated that he has seen a disturbing trend—two Measure Z clubs that were delivery services have been shut down which encourages more neighborhood sales as consumers don't have access through a club. Joe DeVries pointed out that cannabis street sales, which are mixed with other drug street sales, often bring a lot of negative elements such as traffic, litter, and turf wars that result in violent activity and are a drain on city resources. The intent of Measure Z was to take cannabis sales out of the hands of street level drug dealers, tax and regulate it similarly to alcohol, and require that consumers also treat it as such; thereby not distributing it to minors, not smoking it in public, and not allowing its use to create negative conditions in Oakland's neighborhoods. Member Martinez clarified: taxed and regulated versus unregulated is what defines the issue.

Jacqueline Patterson, another public speaker, stated she started coming to Measure Z meetings when the information bulletin was being discussed last year. She is concerned that the City would back away from their support of well regulated cannabis distribution because of the federal actions against dispensaries. Specifically she was curious if Police resources were diverted away from East Oakland the morning of the raid on Oaksterdam University, allowing for the tragic Oikos University shooting to transpire. She is concerned about what message the City sends the Federal Government when they want to enter Oakland to raid clubs.

Lt. Poirier clarified that OPD was not involved in the Oaksterdam University raid until there was a need for crowd control after the raid. The officers who did participate were not paid overtime; they were regular patrol officers responding as they normally would to a call.

Chairperson Bonett noted that the following agenda item deals with precisely this issue and asked for further clarification of OPD policy regarding federal action. He explained that sometimes OPD and Federal Policies and procedures match and sometimes they do not. OPD receives notification of Federal Actions sometimes but does not actively assist in the planning or execution of these actions. Joe DeVries explained to Lt. Poirier that the committee's concern is that OPD would help in the investigation leading up to a raid. Lt. Poirier reaffirmed that OPD did not do anything but crowd control.

Member Hummel went on to thank OPD for their work on the day of the raid because were it not for OPD some of the very emotional protesters could have been arrested by the federal agents and charged federally for obstruction of justice. OPD helped to create a safe buffer between the protesters and the feds. The audience applauded at this point.

Next, Member Parker asked if OPD had demographic data on the persons arrested for cannabis offenses. Lt. Poirier will look into this.

Chairperson Bonett asked Lt. Poirier what the reaction was to the information bulletin by OPD staff. He explained that since this was already the policy, the bulletin served simply as a reminder and there was no significant reaction. All officers must sign a statement verifying that they have read and understand the bulletin.

Joe DeVries asked about the difference between possession and possession with intent to sell and whether the number of baggies of cannabis one possesses impacts the different charge. Lt. Poirier explained that the charge of “intent to sell” is based on a number of factors and handled on a case by case basis. The multiple baggies does not necessarily mean intent to sell, nor does having only one baggie left mean they were not selling. An officer may observe a person selling five baggies and then when they arrest them, the person has only one baggy left—they still are charged with intent to sell based on officer observation.

Chairperson Bonett noted that the data suggests that OPD is honoring Measure Z and that lowers the fear in the minds of cannabis consumers in Oakland. Member Hummel agreed that in fact that fear exists outside of Oakland—cannabis consumers in Oakland can be thankful that OPD is honoring the policy. Again the committee thanked Lt. Poirier.

In determining when OPD would return, the committee discussed changing the July and August meeting schedule. It was decided that the committee would move its date to the fourth Thursday of July (26th) and cancel the August meeting.

2. A continuation of the discussion of the federal crackdown on marijuana dispensaries and the City’s response to it.

The committee looked at the draft resolution that Member Parker wrote for the City Council’s consideration that condemns the federal action in Oakland. There was some discussion as to whether the word medical should be included in the resolution or whether the resolution should just discuss “well-regulated” cannabis distribution. Chairperson Bonett asked if some language could be added about jobs, whether it should mention “Drug Cartels” and if it should refer to the black market or underground economy. Other technical issues within the resolution were discussed and resolved. A lengthy discussion ensued regarding the language about OPD and their potential involvement with the Federal actions. The committee wants the resolution to advise OPD to avoid assisting the Feds in investigations but also wants to allow for OPD to do their job in regard to crowd control when there is a public safety issue.

Also language was discussed to include the fact that it appears the feds are going after clubs that are politically involved or outspoken and therefore the raids have a chilling effect on free speech.

Joe DeVries made a motion that Member Parker draft a resolution that includes the comments today, and bring it to the Council Member whom recommended her for appointment (Kaplan). The motion passed and Member Parker agreed to email the final draft before going to her Council Member.

3. A discussion of the Measure Z annual report to the City's Public Safety Committee.

Joe DeVries made a motion that this item be tabled to the next meeting and make it the first action item at that meeting. The motion passed.

F. Announcements

Chairperson Bonett announced that SF Gay Pride was being celebrated this weekend in the city.

G. Adjournment

The meeting adjourned at 8pm.