

Thursday, July 26th, 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, Mintz, Anthony, and Chairperson Bonett were present. Member Gieringer was excused.

B. Open Forum / Public Comment

There were no public speakers.

C. Review of the Pending List

There were changes to the pending list.

Under item E1 a motion was made to add a public education campaign regarding the private use of cannabis to the pending list.

D. Approval of the Draft Minutes from the Measure Z Committee meeting of June 21st, 2012.

After some minor corrections the minutes were approved by consensus.

E. Reports for Discussion and Possible Action

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

Chairperson Bonett noted a draft report that was the penultimate page in the agenda packet as a reference. She looked at ten different agendas and minutes to create the summary in hopes of capturing the main work of the body over the year which included adding several new members. She invited anyone to step forward to add to any of the paragraphs. A major effort was the development of an OPD Training/Information Bulletin.

Joe DeVries suggested taking the data in the draft and prioritize it based on the level of importance to the City and the Committee. He suggested this order: 1) The Information Bulletin since creating it was a direction of the Public Safety Committee and it actually had an impact on the Police Department, 2) The Smoking Ordinance since the committee spent a lot of time and

even entertained guest speakers on the issue, and 3) the Federal Crackdown and the City's response to it since that had such a major impact on the entire issue of Cannabis regulation.

Chairperson Bonett followed the order of the last report but agreed with Joe DeVries's suggestion. He also suggested rewriting the portion regarding the OPD Information Bulletin so as not to suggest or imply that OPD was not complying with the ordinance.

Member Parker noted that much of what Item 3 refers to took place in 2012 (Serena Chan from the American Lung Association appeared in 2012). She also noted some minor language errors that need to be reworded. After a lot of minor conversation it was decided that Member Parker would work with Member Gieringer to rework the section regarding the Smoking Section, Joe DeVries would expand and edit the section on the OPD Training Bulletin, the report would ultimately go through Joe DeVries for final writing and editing.

2. A continuation of: 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) (2 attachments)

Lt. Mike Poirier presented on behalf of OPD started by suggesting corrections to the draft annual report to note that OPD is implementing its portion of Measure Z and that the Training/Information bulletin is NOT modeled after the Medical Marijuana Training Bulletin. He then went on highlight portions of his follow-up report (Attached) that answered questions the committee had in June. This included summaries of the cultivation arrests in 2011, demographic data on all arrestees, and the role OPD played in regard to the Federal raid on Oaksterdam University. OPD was notified about the DEA raid on Oaksterdam approximately 20 minutes before the operation. This is not atypical, often there is no notification before a police action and notification is usually provided as a safety precaution. OPD needs to know what is taking place in case they are needed; they don't want to go in blind.

Members Parker and Hummel thanked the Lieutenant for the follow up information and then asked a few informational questions. Member Parker noted the reduction in cannabis arrests and asked specifically what OPD was doing to continue that downward trend. Lt. Poirier stated that OPD does not want to reduce cannabis arrests when the person arrested is violating Measure Z standards, in other words, if they are selling cannabis on the street, they are in direct conflict with the law's intent which was to reduce street level drug dealing.

Member Hendrix asked if OPD was training officers to distinguish between the smells of smoked cannabis versus merely packaged cannabis during a vehicle stop and does that make a difference in regard to how the officer proceeds. Lt. Poirier stated that if an officer smells marijuana, it means the law has been broken and the officer has the right to take action. Member Hendrix went on to ask about what happens if the marijuana detected is medical. Lt. Poirier noted that the guidelines for medical cannabis are very clear and it is common and routine for officers to verify a patient's medical status and then send them on their way after stopping them when they are in possession of cannabis. Joe DeVries noted there is a difference between cannabis possession and consumption; smoked cannabis in a vehicle becomes a potential traffic safety

issue. Also, Measure Z protects “Private” consumption and ones car is not considered private and therefore Measure Z would not necessarily apply. Lt. Poirier clarified that Medical Cannabis can be consumed in public whereas non-medical cannabis cannot be; even under Measure Z.

Chairperson Bonett asked about transportation amounts and vendors for medical cannabis clubs. Again Lt. Poirier clarified the difference between Medical and non-medical cannabis. The rules are different but if someone is abiding by the medical cannabis regulations, OPD will let them go.

Chairperson Bonett and Member Parker were also interested in seeing a geographic distribution of arrests and Lt. Poirier could provide that data by Police Beat or District. He will provide that later. Joe DeVries said he could provide a beat map along with the arrest data so members would understand where arrests are being made.

One Public Speaker, Carol Tolbert, approached the podium and asked about age demographics on the cannabis arrests. She noted that as a former School Board Member, she was concerned about the impact of an arrest on young people in terms of their future success. She asked if the age demographic could be provided and if she could look at it. Chairperson Bonett asked if the report provided by OPD included arrests of minors. Lt. Poirier stated he would provide age data as well as geographic data.

Joe DeVries noted that juvenile arrests are treated differently than adult arrests. Juveniles are not incarcerated at Juvenile Hall for less serious offenses therefore it is far less likely that a juvenile stopped for a cannabis offense will be arrested than an adult for the same offense.

Member Hummel noted that the juvenile data is very important to get the complete picture. He also reiterated his question from prior meetings about when officers interact with a person with cannabis and no arrest takes place. Lt. Poirier noted that that data is not possible to track.

Member Hendrix asked about OPD’s role in regard to educating the public about when cannabis use is appropriate and when it will cause an action by OPD. Lt. Poirier noted that the constraints on OPD resources don’t lend them to be able to perform such education while in the course of normal duty. He theorized that the courts may be the appropriate place to educate the public on this matter.

Joe DeVries commented that this is an important issue but not one OPD could or should address. He referenced the outreach done by Measure Y programs to youth regarding employment opportunities. The outreach worker can provide this information better than an officer and the same goes with cannabis. The committee or some other entity should educate (young) people about appropriate public behavior and that could lead both to fewer arrests and a better Oakland. He equated it to walking down the street littering or drinking a beer, both are wrong, both are things people could police each other on, both are issues the police don’t have time to educate people on but have a responsibility to enforce the law.

Member Parker noted that the geographic data could help the committee determine where the highest likelihood of OPD action is regarding public cannabis offenses and the public education campaign could be planned accordingly. Chairperson Bonett suggested a flyer or card that could be distributed at clubs or conduct a public meeting in the districts where it is an issue. She noted that Measure Z passed 8 years ago and many young people may not know the details of the law.

Member Parker made a motion to add a public education campaign to the pending list. The motion passed. Chairperson Bonett again thanked Lt. Poirier for all of his patience and work and he noted that Lt. Blair Alexander will be replacing him. He received a warm round of applause.

3. A discussion regarding City actions against “Measure Z” Clubs.

Member Parker noted that she asked for this item because of information she had heard from a member of the cannabis community but she was unable to gather more information so was fine with not discussing it. She had heard that the City had sent “Cease and Desist” letters to several Measure Z clubs but she was unable to get a copy of the letter or verification as to whom had sent it.

Joe DeVries gave a brief oral report summarizing what he found: There is an individual who is complaining to the City Administrator about Measure Z Clubs, providing their addresses and complaining that they are operating illegally. The City has an obligation to respond so they are sending “Cease and Desist” letters to the reported locations explaining that Measure Z Clubs are not permitted under current law.

The City then follows up with an inspection. If the inspection doesn't result in any evidence of this activity then the complaint is closed. If in fact there is evidenced of a club, the City requires that they stop operating. If a location receives a second complaint (such as within four months) then the city will re-inspect and this second inspection may be unannounced.

Member Hummel noted that this is a confusing policy. Member Anthony asked if these alleged clubs are being considered for their tax liability. Joe DeVries believes that business tax and licensing is one factor they look at in the course of their inspection. He went on to note that the city is not aggressively pursuing these complaints (with OPD and other agencies) but they are following up similarly to following up on any other nuisance complaints.

Richard Lee spoke (as a member of the public) on this item. He borrowed the phrase “Don't ask don't tell” to categorize the City's response. He went on to note that law enforcement priorities places these complaints fairly low on the list, especially with a reduction in officers and an increase in violent and property crimes. Generally he believes that the City is handling this issue as efficiently as possible. However, he noted that the city's restriction on the number of clubs makes those clubs a target for federal action whereas if there were dozens of clubs they would not be targeted as readily.

Chairperson Bonett asked if this item should be continued but Member Parker felt it was not necessary unless the issue were to come back up. Chairperson Bonett noted that it is in the interest of the Measure Z community to publicize what is going on and try to curb complaints. The conversation then turned to a revisit of the definition of "private" and how the city's definition is flawed. It was noted that it would take a major shift in the City Council interpretation or a ballot measure to redefine the interpretation of private.

4. Action: Send a letter of support to Amendment 64 in Colorado (Tax and Regulate Marijuana).

The group discussed Amendment 64 in Colorado and voted to send a letter of support from this committee to the campaign in Colorado. Joe DeVries noted that a letter of support is fine but that there can not be any monetary support offered as this would not be allowed under city regulations. The committee is an advisory body to the City Council so even a letter of support is pushing the envelope a bit. Joe DeVries abstained from this vote.

5. Discussion of possible name change for the committee to "Cannabis Regulatory Commission"

Based on the age of Measure Z, Chairperson Bonett had concerns that members of the general public do not remember what Measure Z was so a more appropriate name would be "Cannabis Regulatory Commission." There was brief discussion and then Member Parker made a motion that the by-laws be officially changed to state that this committee will now be known as the "Cannabis Regulatory Commission." Member Martinez seconded the motion and the motion passed unanimously.

6. Follow-up discussion of proposed resolution to the City Council condemning the federal crackdown on dispensaries. (1 attachment)

There was brief discussion about the draft and edits but no action was taken. The amended draft will be included in the next agenda packet.

The Meeting adjourned at 8:15pm.