

Cannabis Regulatory Commission (former Measure Z)

Thursday, May 16th, 2013, 6:00 p.m.

Meeting Minutes

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

Members:

Dale Gieringer	District 1	Jacob Sassaman	District 7
Vacant	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>

AGENDA

A. Roll Call and Determination of Quorum

Members Gieringer, Martinez, Hummel, Hendrix, Sassaman, and Parker were present, Chair Person Bonett was excused, and Member Anthony arrived after the role call.

B. Open Forum / Public Comment

Cecile Bonaudi spoke about her experience attending an Oakland Budget Town Hall Meeting and the fact that any budget ideas the commission had such as the public education campaign, it might make sense to submit the idea during the budget process.

C. Review of the Pending List

Member Gieringer asked about the reappointment process and if that needed to be discussed. Joe DeVries noted there was some work to be done to re-appoint people and he could discuss it at the next meeting.

D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meetings of March 21st, and April 18th 2013.

The minutes for both months were approved with several non-substantive edits.

E. Reports for Discussion and Possible Action

1. Update on review of current CA Legislation regarding Cannabis

Joe DeVries reported that he had discussed AB 473 with City Council President Kernighan's Office to ensure the City Council through its President was aware of the discussion taking place at the Commission. She, in turn, connected him with the City's State Lobbyist who is actively interested in seeing that Oakland help pave the way for state regulations based on our vast experience. The City's lobbyist has made the case for local control and that Oakland be

considered a model. He also noted that he is also up to speed on Senator Leno's Bill that provides some financial protections for cannabis cooperatives who often have a hard time with conventional banking. Based on the details of the conversation he felt that the City's lobbyist is very up-to-date on the issues and generally supportive of the Commission's viewpoint.

Member Gieringer also provided an update on where the bills are in the legislature. AB 473 is moving through committee while Darryl Steinberg has also introduced a bill which still is more of a place holder in hopes of putting in language that advocates, cities, and their lobbyists are in support of.

Joe DeVries noted the Supreme Court ruled in favor of the City of Riverside's ban on store front dispensaries which changes the debate in the legislature and asked that Member Anthony comment on that. Member Anthony noted the League of Cities will lobby hard to preserve that right to ban which creates an inconsistent patchwork of dispensaries statewide. He and Member Gieringer were in Sacramento for American's for Safe Access's Lobby Day and ran into the City's lobbyist.

Member Martinez commented that the City's Lobbyist's position is a good sign that the Commission's recommendations are being heard. Joe DeVries noted that in the future, going to the Rules Committee to present recommendations is still an option to consider in the future. He hopes that this process will become more formalized.

Robert Raich, a member of the public, spoke to the item. He suggested that the City's lobbyist's focus should be to remove the Alcohol Beverage Commission (ABC) from the role as regulator in the legislation. He cited examples of why he felt that ABC was the wrong choice for regulating medical cannabis. He noted that Cities are not happy with the ABC's regulatory efficiency and bar and liquor store owners find their regulations onerous and ineffective as well. He even provided a few articles highlighting this problem for the Commission to consider including ABC attempting to shut down establishments on false charges that could be a practice they use locally to shutter dispensaries. He cited two other examples of agencies that would be better including the Consumer Protection Agency, or the Department of Public Health.

Member Sassaman noted that he shared these concerns, especially for the small scale farmers who have been growing for thirty years without a problem, now having to appear before the local sheriff to register. He didn't think it was likely that they would and then they would be subject to new regulations that could put them out of business. He also pointed out that industry workers will be impacted by this bill far more than the average patient. These workers put their safety and freedom on the line to provide this medicine for people.

Joe DeVries also noted that putting the regulation of a medicine into the hands of an agency that regulates a vice implies that medical cannabis is a vice as well. Member Gieringer pointed out that the legislature looked to ABC out of expediency; there isn't another agency willing to take it on and a new agency would have huge costs associated with it.

Member Sassaman asked about modifying the recommendation to the City Council and Joe DeVries clarified that any member who voted for the original recommendation could move to modify it.

Member Gieringer wanted to stress the importance of a bill passing based on the Federal government's assertion that until there is some statewide framework, they continue to apply pressure to local dispensaries.

Ultimately Member Anthony made a motion to recommend support of the bill with the caveats that ABC not be the regulatory agency and that the privacy of industry workers' privacy be protected and that access be guaranteed to any patient who is in need of medicine regardless of where they live.

The measure passed unanimously.

2. Update on Scheduling Meetings with Council Members Gallo and Schaaf.

Member Parker reported that she had contacted Council Member Schaaf's Office and was expecting an update next week. Joe DeVries reported that Council Member Gallo's Office acknowledged that they were aware of the need to schedule a meeting.

3. Annual Report from OPD Lt. Green: Monitoring of OPD compliance with Measure Z guidelines and cooperation with Federal Agencies.

Sgt. Kevin Reed gave the attached report on arrest data for 2012 for cannabis related offenses. He also reported that there were 42 incidents involving cultivation and of those: 13 involved burglaries in progress where OPD was called to the scene, 6 were incidents where there was a fire and OFD called OPD to the site, 4 were where OPD was assisting the DEA, ATF, or Federal Marshals in executing a search warrant, 5 were locations where citizens called to complain, 2 were incidents where a shooting was involved at the location, and 4 locations were reported by police informants.

Vice Chair Hummel asked for clarification around arrests for transporting cannabis and if the reduction in arrests was related to the reduction in the size of the police force and Sgt. Reed confirmed that this was probably a large contributing factor.

Member Gieringer asked if there was still a narcotics task force and Sgt. Reed reported that there is not one—only an Alameda County task force that Oakland participates in.

Member Parker asked if the four incidents where OPD assisted the feds with a search warrant, was the warrant for cannabis or something else. Sgt. Cook noted that one of the incidents was a warrant for illegal gun possession but they subsequently found cannabis. He did not know the cause of the other three.

Member Martinez asked if the people arrested or cited for less than an ounce were cited or arrested based on the change in state law. Sgt. Reed was not sure. Member Martinez asked if the Commission could get the data broken down demographically for the citations as well as the arrests. Member Gieringer asked for the data for 2011 on the citations as well for 1157b because we have a hole in the data.

Member Hummel asked about the disparity between arrests rates for different races. He noted that the possession for sale numbers show a huge disparity: 124 African American males versus 10 for white males. Sgt. Reed noted it has to do with the calls for service—there are more call for

service in areas with a higher concentration of African Americans. Joe DeVries pointed out that the International Boulevard corridor is where the city gets a higher concentration of calls for all crimes and it stands to reason that this is true for cannabis offenses.

Member Parker asked if it was the growers that called about the robberies and Sgt. Reed stated that 90% of the time it's a neighbor calling about suspicious activity or an alarm going off at the property.

Member Sassaman asked if any of the arrests were for "Measure Z" Clubs. Sgt. Reed stated that none of the cultivation arrests were but he was not sure about the possession for sale arrests.

Joe DeVries reported that he spoke with the Lieutenant about the homicide associated with a grow and basically the grow was being burglarized and the suspect was shot by the grower in self defense.

Member Sassaman asked if OPD follows the City guidelines about the number of plants allowable per patient and Sgt. Reed reported that OPD relies on the City's guidelines and if someone is outside of those guidelines, it is up to the officer's discretion based on the totality of the circumstances.

Member Hendrix asked if the majority of arrests were based on people's lack of understanding about what is and what is not allowable under the lowest law enforcement policy. He represents an area with a high arrest rate and feels that people need to know they can't just smoke it in public. He went on to ask if a public education campaign would help with that. Sgt. Reed noted that a lot of it has to do with how a person is raised as to whether they are willing to acknowledge what is right versus wrong behavior so he showed some skepticism as to whether a public education campaign would help.

Member Parker asked if he had any insight as to why the number of cultivation cases dropped dramatically in 2011 but then bounced back up in 2012. Sgt. Reed cited one particular case where an officer received information about a grow site and when officers arrived there were nine individuals there who all were charged which drove the numbers up.

Member Sassaman asked if OPD only accepts the state ID card or do they accept the written recommendation. Again Sgt. Reed noted it depends on the situation, the individual's behavior, and the officer's discretion.

Vice Chair Hummel raised the issue of when people are smoking in public there is an inconsistency in when they are cited. Joe DeVries pointed out that officer discretion is important in evaluating whether it's worth engaging someone for a minor infraction or not—sometimes their other behavior requires some amount of engagement.

Member Gieringer commented that he is far more concerned with felony arrests and is glad to see they have been greatly reduced.

Member Parker requested more follow-up on the cases where OPD assisted with the federal government. Sgt. Reed said he would provide some follow up information. Member Hendrix asked for an age breakdown and Joe DeVries noted that this is information that would have to be

processed by hand and quite time consuming. Member Sassaman asked about arrests related to Measure Z Clubs.

Member Martinez noted that his biggest concern is the demographic inconsistency in who gets arrested for cannabis offenses.

4. Update on status of enforcement actions by City against Measure Z Clubs and ad hoc conversations with club operators.

Joe DeVries reported out that he had conducted some research with the City Administrator's Office about enforcement actions against clubs. Over the past two years nine letters have been sent by the City Administrator regarding dispensaries. Joe read the letters to summarize what position the City is taking with these alleged dispensaries: first, that a claim has been made that they are operating a Medical Cannabis Dispensary, second, that in order to do so one needs a permit which they do not have, and third, that the operator must cease and desist and if they do not then they will be subject to inspection or possible action by OPD. The letter was sent to nine locations and of those, three were rescinded or after inspection it was determined that no illegal activity was taking place and the other six no further action was taken because no further complaints were received. Joe DeVries went on to note that the administrative assistant explained to him that they are receiving multiple complaints about locations from one specific individual and due to the number of complaints he files, they are concerned about the legitimacy of those complaints. Therefore, they are sending the letter because they are required to but really don't think further action is warranted unless they receive supporting information or other complaints about that location.

Vice Chair Hummel asked if any of these letters were sent to private residences and Joe DeVries responded that they all appeared to be in commercial locations. Some members asked where some of these locations were but Member Sassaman noted that the group should not publicly discuss the address out of respect to the clubs. He went on to note that he knows of one operator who has moved three times due to receiving complaints.

There was some discussion about which clubs had been targeted and whether formerly medical dispensaries were being targeted or whether individual operators were targeted multiple times but generally the group did not discuss the names or locations.

The group decided that if any new letters come in, Joe DeVries should bring them to the Commission's attention. The group also discussed what revenues are coming in to the city through licensed or unlicensed dispensaries. The group asked that staff ask the business license office for a list of locations that show who is paying taxes for cannabis distribution and what the total yearly amount is that the city collects.

F. Announcements

There were four members of the public present at the meeting.

G. Adjournment

The meeting adjourned at 7:45pm.