

Measure Z Committee

Regular Meeting

Thursday, February 18, 2010, 6:00 p.m.

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

AGENDA

Members:

Dale Gieringer	District 1	Keith Stephenson	District 7
Joseph E. Villatoro	District 2	TC Everett	At Large
Richard Lee	District 3	Leslie Bonett	Mayor
James Anthony	District 4	Wendy Herndon	City Auditor
Matt Hummel	District 5	Jeff Baker	City Administrator
Vacant	District 6		

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

AGENDA

- A. Roll Call and Determination of Quorum
- B. Open Forum / Public Comment
- C. Review of the Pending List
- D. Approval of the Draft Minutes from the meeting of the Measure Z Committee of December 17, 2009.
- E. Reports for Discussion and Possible Action:
- F. Announcements
- G. Adjournment

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2010 FEB 11 PM 1:37

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.

Measure Z Committee

Pending List and Proposed

February 18, 2010, 6:00 p.m.

Items for Discussion

Pending, No Specific Date

1. Information on marijuana arrests and citations, including data tables / matrix of marijuana offenses and arrests and other crime trends from the OPD (D. Gieringer / J. Anthony, rev. 1-15-09)
2. Establishment of guidelines for Measure Z club's to deal with the issue of fees to be paid by licensed Measure Z Clubs. (R. Lee / K. Stephenson) *rev. Aug 08*
3. Develop guidelines for future enforcement (D. Gieringer)
4. Draft a proposed Training Bulletin for OPD for Measure Z (modeled after the Medicinal Cannabis Training Bulletin) for the implementation of the Measure Z lowest law enforcement priority, including protocols for OFD/OPD interaction, re: encountering cultivation operations in the course of their duties (J. Anthony and K. Stephenson) *rev. Aug 08*
5. Monitor, on an ongoing basis, "private, adult" marijuana offense arrests (J. Anthony)
6. A definition of "private" as it relates to cultivation in the law (R. Lee) *rev. Aug 08*
7. Annual Report from the Measure Z Committee to the Oakland City Council (D. Gieringer 7/20/06)
8. Review of Oakland compliance / non-compliance policies with the Drug Enforcement Agency (DEA) (R. Lee/D. Gieringer 9/20/07)
9. Discussion of "clear violations" of Measure Z (ex. People packaging personal use cannabis in their homes) as part of a dialog with OPD (invite public to share stories) (J. Anthony 12/20/07)
10. Review of environmental impacts of indoor / outdoor growing and possible regulations (M. Hummel 11/19/09)
11. Licensed cannabis smoking premises in the City of Oakland (D. Gieringer 3/19/09)
12. Report from the District Attorney – conviction vs. arrest statistics for CA Health & Safety Code section 11357 – misdemeanor arrests (L. Bonett 5/21/09)

For Tracking Purposes

1. Election of Officers – March 2010

(Rev. 21 January 2010)

Item: C
Measure Z
February 18, 2010

Measure Z Committee

Draft Meeting Minutes

Thursday, December 17, 2009, 6:00 p.m.

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

Members:

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Joseph E. Villatoro	District 2	TC Everett	At Large
Richard Lee	District 3	Leslie Bonett	Mayor
James Anthony	District 4	Wendy Herndon	City Auditor
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Vacant	District 6		

DRAFT MINUTES

A. Roll Call and determination of quorum

Members Present: Gieringer, Villatoro, Lee, Hummel, Everett, Bonett, Baker and Chairperson Anthony

Members Excused: Stevenson, Herndon

The meeting of December 17, 2009 was called to order at 6:10 p.m., by Chairperson James Anthony.

B. Open Forum / Public Comment

There were no speakers on Open Forum.

C. Review of the Pending List

There were no changes to the Pending List.

D. Approval of Draft Minutes

The Minutes of the November 19, 2009 Measure Z meeting were approved, by consensus.

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E. Reports for Discussion and Possible Action

(Item E-2 was taken out of order at direction of the Chairperson.)

E-2 Review of Amendment 1 to “Bylaws of the Community Oversight Committee Created by November 2, 2004 Ballot Initiative Measure Z, Entitled “Oakland Cannabis Regulation and Revenue Ordinance” [Adoption requires 2/3 affirmative votes (8 members), per Bylaws Article XI]

Alix Rosenthal, Deputy City Attorney provided the report. The Office of the City Attorney recently completed an audit of city boards and commission to ensure compliance with Section 601 of the City Charter which mandates the Mayor to appoint all members of city boards and commissions subject to City Council confirmation. The audit disclosed several board and commission appointments were not compliant resulting in the proposed amendment to the by-laws of the Measure Z Committee. The legal effect of the by-law change will place the Measure Z Committee appointment process in compliance with the City Charter.

Chairperson James asked whether the Measure Z Committee was subject to the strictures of the City Charter since the Committee was also created through a ballot initiative.

Ms. Rosenthal responded that though the ballot initiative created the Committee, the appointment process was created by city ordinance. A city ordinance cannot amend the City Charter. The proposed amendment will place the by-laws in compliance with the City Charter. Further, an amendment to the City Charter requires “notice” on the ballot that the proposed Initiative will, in fact, “amend the City Charter.” The Measure Z Initiative, though the product of a ballot initiative, did not provide the requisite notice.

There were no public speakers on this Item.

A Motion to adopt the proposed by-law amendment was made, seconded and approved by consensus.

E-1. Review of the Final Language of the “Regulate, Control and Tax Cannabis Act of 2010” and Approval to Forward to the Oakland City Council Urging the Council to Adopt a Resolution of Support for the Initiative

The following three individual(s) spoke on this Item:

Jeff Jones:

Supporter of 2010 Initiative. Urged Committee to send 2010 legislation to the City Council for endorsement.

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Cecile Bonaudi:

Supporter of the 2010 Initiative. Has collected hundreds of business cards of enterprises associated with cannabis who already pay State taxes. The 2010 Initiative will be placed on the ballot. Urged Committee to “get on board.”

Dale Clare:

Supporter of 2010 Initiative. Thanked Committee for being part of “the solution.” Oakland has the opportunity to have safer communities through the regulation and taxation of cannabis. Urged the Committee to support the 2010 Initiative and forward to the Oakland City Council for endorsement.

Member Lee provided a status report of the 2010 Initiative: Sufficient signatures have been collected to place the Initiative on the California ballot. The signatures were collected in 40% of the time allowed and the plan is to deliver the signatures to the State in mid-January. Other proposed ballot initiatives have faltered or completely dissipated.

Member Bonett urged Committee to forward 2010 Initiative to Oakland City Council for endorsement.

Member Gieringer suggested the Measure Z Committee endorse the 2010 Initiative if the 2010 Initiative “qualifies” for the State ballot.

Member Lee made a Motion that the Measure Z Committee forward the Final Language of the Regulate, Control and Tax Cannabis Act of 2010 to the Oakland City Council for endorsement and adoption of a City Council Resolution of support of the Initiative. The Motion was seconded by Member Villatoro.

. A roll-call vote was taken:

On the Motion:

Member Gieringer – Aye
Member Villatoro – Aye
Member Lee – Aye
Chairperson James - Aye
Member Hummel – Aye
Member Everett (Abstain)
Member Bonett (Aye)
Member Baker (Not Sworn-In)

The Motion passed with a six affirmative votes.

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E-3 “Establishment of Guidelines for Measure Z Clubs to Deal with the Issue of Fees to be Paid by Licensed Measure Z Clubs”

There was one speaker on this Item:

Jeff Jones:

The proposed guidelines would set up a minimum service fee of \$50 per adult thereby making it a benefit to be a medical patient. The requirement would be that the individual is over twenty-one years of age and that the establishment can prove operating a club. Comparable to the alcohol wine industry model, if similarly licensed by the same City office that licenses adult cabarets, the model would ensure that no one operates without a license.

Chairperson Anthony asked if someone could elaborate on Item 4., the quarterly fee payments in the proposed fee structure.

Member Lee explained the administrative fee cost would be paid to the Measure Z Club, not the City, since the Club would maintain the member records. The fees are to be paid quarterly to accurately count the numbers of persons who visit a club. For example, a person who visits a club once during a calendar year would be counted in the initial quarter and not the succeeding quarter. As an aside, we may want to consider lowering the fees from \$50 to \$20-\$40 in light of the collection of the Measure F Tax, effective in January 2010. The clubs will pay the city an annual cost based upon their membership, similar to the design of the medicinal marijuana dispensary ordinance with 3-4 levels of fees. Member Lee, Villatoro and Everett will continue to work to clarify the language of the guidelines and return to the Committee in March 2010.

[Staff person Baker will research whether earlier Measure Z Club legislature was presented to the Public Safety Committee and City Council.]

F. Announcements:

Member Lee announced the grand opening of the new Oaksterdam University Campus, on January 7, 2010. There is a benefit for the 2010 Initiative, tickets are available on line, more information can be obtained at www.taxcannabis.org. The East Bay Activist meeting is held after this meeting at the Oaksterdam University Student Union.

Member Gieringer announced a hearing on the Ammiano Legalization Bill, AB 390, on January 12, 2010. Endorsements are welcome and now is the time to contact local Assembly Members on the bill. Please refer to website, www.canorml.org.

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Member Lee announced a rally/protest, in early January by Mickey Martin, in Oakland, beginning at Federal Building to State Building to Oakland City Hall.

G. Adjournment. *There being no further business, and upon the motion duly made, the Measure Z Committee adjourned.*

Staff to the Measure Z Committee

Date Adopted

Item: _____
Measure Z
December 17, 2009

**BYLAWS OF THE COMMUNITY OVERSIGHT COMMITTEE
CREATED BY NOVEMBER 2, 2004 BALLOT INITIATIVE MEASURE Z,
ENTITLED
"OAKLAND CANNABIS REGULATION AND REVENUE ORDINANCE"**

**ARTICLE I
NAME**

The name of this organization is the Measure Z Community Oversight Committee

**ARTICLE II
PURPOSE**

It is the purpose of the Measure Z Community Oversight Committee (hereinafter referred to as the "Measure Z Committee"), created by Measure Z, to oversee implementation of the Lowest Law Enforcement Priority Policy and ensure timely implementation of Measure Z by:

-
- a. advising the City Council of concerns, issues regarding the lowest law enforcement policy for private adult cannabis offenses;
 - b. making recommendations to the City Council regarding the policy implementation; and
 - c. reporting annually to the City Council on the implementation of Measure Z.

**ARTICLE III
FUNCTIONS**

As provided by City Council Ordinance No. 12694 C.M.S., which established the procedures and responsibilities of the Committee and, as amended by Ordinance No. 12958 C.M.S., which provides the terms of the Committee members, the Committee will advise the City Council of concerns and issues regarding the lowest law enforcement policy for private adult cannabis offenses, make recommendations to the City Council regarding the policy implementation, and report annually to the City Council on the implementation of Measure Z.

The Measure Z Committee will work with other boards, commissions and City staff, as appropriate to encourage coordination of City efforts. With respect to Measure Z related functions or responsibilities of another board, commission or department of the City, the Measure Z Committee will provide assistance and advice to such board, commission or department upon request.

ARTICLE IV
MEMBERSHIP

Measure Z created an eleven member, advisory Community Oversight Committee, whereby, in accordance with Section 601 of the City Charter, the Mayor nominates one (1) community member, and nominates one (1) community member from each Council District after consulting with the respective Council member(s); and the Mayor nominates one (1) representative from the City Administrator and City Auditor, after consultation with the respective authority. All appointments shall be confirmed by a resolution of the City Council. Committee members must reside in the City of Oakland at the time of appointment and throughout the term and should have the appropriate skills and expertise to carry out the duties of the Committee.

Each member shall be appointed to a term of two (2) years, with each term commencing on the first day of August of odd numbered years for members recommended by Councilmembers in Districts 1, 3, 5, 7, and the representatives from the Mayor and City Administrator, beginning in 2009; and in even numbered years for members recommended by Councilmembers in Districts 2, 4, 6, At Large, and the representative from the City Auditor, beginning in 2010, except that an appointment to fill a vacancy shall be for the unexpired term only. For the year beginning the first day of August 2009 only, members recommended by Councilmembers in Districts 2, 4, 6, At Large, and the representative from the City Auditor shall be appointed to a one (1) year term, providing that they do not vacate their position or are not reappointed by their representative authority. Members may be reappointed to subsequent terms. If a member has not been reappointed or replaced upon the expiration of his or her appointed term, that member may remain in hold-over status for up to one (1) year, but may be replaced by the appointing authority at any time during the hold-over period.

A vacancy on the Measure Z Committee will exist whenever a member dies, resigns, ceases to reside in Oakland, or is removed.

Committee members serve at the pleasure of their appointing authority.

ARTICLE V
OFFICERS

The members shall elect a chairperson and a vice chairperson who shall serve for a two (2) year term. Upon conclusion of their two (2) year term of office, office holders shall be barred from standing for the same office for the succeeding four (4) years, unless two-thirds (2/3) of the total Measure Z Committee's membership (8 affirmative votes) vote to override the term limit.

**ARTICLE VI
MEETINGS**

The Measure Z Committee shall meet in City Hall, at an established date and time suitable for its purpose. Six members of the Committee shall constitute a quorum for the purpose of conducting meetings. Other meetings scheduled for a time or place different from that established for regular meetings shall be designated special meetings. All meetings shall be held in accordance with the Ralph M. Brown Act (Government Code section 54950 et seq.) and the City of Oakland Sunshine Ordinance (Oakland Municipal Code Chapter 2.20.)

**ARTICLE VII
RULES AND PROCEDURES**

The Measure Z Committee, in consultation with the City Administrator, shall establish rules and procedures for the conduct of its business by a majority vote of the members present; provided that a quorum for the conduct of business is six members. Voting shall be required for the adoption of any motion or resolution. The business of the Committee shall be conducted, in so far as it is practicable, in accordance with parliamentary rules contained in *Robert's Rules of Order Newly Revised*, as it may be amended from time to time, except as modified by these bylaws and in compliance with the state open meeting laws (Brown Act, Government Code section 54590 et seq.) and local sunshine ordinance (Oakland Municipal Code Chapter 2.20).

**ARTICLE VIII
REPORTS AND RECOMMENDATIONS**

The Measure Z Committee shall make reports, findings and recommendations either to the City Administrator or the City Council, as appropriate. An annual report will be presented in writing to the City Council.

However, recommendations from the Measure Z Committee shall be carefully and fully considered by the City Administrator before they are presented to the Council. If the City Administrator rejects its recommendation(s), the Measure Z Committee may submit the recommendation(s) to the City Council for consideration, as appropriate.

ARTICLE IX
STAFF

The City Administrator, or a designee, may provide the Measure Z Committee with staff assistance and a representative of the City Attorney's Office will attend committee meetings as appropriate.

ARTICLE X
COMMITTEES

The Measure Z Committee may not create any Standing Committees for the purpose of delegating any of the Committee's decision-making or duties, but may form ad hoc committees as needed to examine study, review matters/issues and present their analyses, proposals, findings, recommendations to the Committee for its consideration and action.

ARTICLE XI
AMENDMENTS OF BYLAWS

Bylaws may be amended, or new Bylaws adopted, at any regularly scheduled meeting of the Measure Z Committee provided that notice of the proposed action shall have been sent to each member of the Measure Z Committee at least fifteen (15) days before said meeting. A two-thirds (2/3) vote of the total Measure Z Committee's membership (8 affirmative votes) shall be required to amend and/or adopt new Bylaws. The Measure Z Committee may amend without permission of the City Council, Office of the City Administrator, or Oakland Police Department only those provisions of these Bylaws that do not give the Committee powers that are reserved for the City Council/City of Oakland, Office of the City Administrator, or Oakland Police Department.

ATTEST: _____
William Roy Uber
Staff to the Measure Z Committee

Amendment 1

In accordance with Ordinance No. 12958 C.M.S., July 21, 2009, and the City Attorney's Legal Opinion, titled "Who Has the Power to Make or Confirm Appointments to City Boards and Commissions," dated August 25, 2009, Articles III – "Function" and IV – "Membership" of the Measure Z Community Oversight Committee bylaws is hereby amended:

ARTICLE III FUNCTIONS

As provided by City Council Ordinance No. 12694 C.M.S., which established the procedures and responsibilities of the Committee and, as amended by Ordinance No. 12958 C.M.S., which provides the terms and responsibilities of the Committee members, the Committee will advise the City Council of concerns and issues regarding the lowest law enforcement policy for private adult cannabis offenses, make recommendations to the City Council regarding the policy implementation, and report annually to the City Council on the implementation of Measure Z.

The Measure Z Committee will work with other boards, commissions and City staff, as appropriate to encourage coordination of City efforts. With respect to Measure Z related functions or responsibilities of another board, commission or department of the City, the Measure Z Committee will provide assistance and advice to such board, commission or department upon request.

COMMENT: Below is a "clean" version of the amended portion of the bylaw noted above:

ARTICLE III FUNCTIONS

As provided by City Council Ordinance No. 12694 C.M.S., which established the procedures and responsibilities of the Committee and, as amended by Ordinance No. 12958 C.M.S., which provides the terms of the Committee members, the Committee will advise the City Council of concerns and issues regarding the lowest law enforcement policy for private adult cannabis offenses, make recommendations to the City Council regarding the policy implementation, and report annually to the City Council on the implementation of Measure Z.

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Amendment 1

ARTICLE IV MEMBERSHIP

Measure Z created an eleven member, advisory Community Oversight Committee that includes ~~one community member appointed by each City Councilmember, one community member appointed by the Mayor, one representative appointed by the City Auditor, and one representative appointed by the City Administrator, whereby, in accordance with Section 601 of the City Charter, the Mayor nominates one (1) community member, and nominates one (1) community member from each Council District after consulting with the respective Council member(s); and the Mayor nominates one (1) representative from the City Administrator and City Auditor, after consultation with the respective authority. All appointments shall be confirmed by a resolution of the City Council.~~ Committee members must reside in the City of Oakland at the time of appointment and throughout the term and should have the appropriate skills and expertise to carry out the duties of the Committee.

Each member shall be appointed to a term of two (2) years, with each term commencing on the first day of August of odd numbered years for members recommended by Councilmembers in Districts 1, 3, 5, 7, and the representatives from the Mayor and City Administrator, beginning in 2009; and in even numbered years for members recommended by Councilmembers in Districts 2, 4, 6, At Large, and the representative from the City Auditor, beginning in 2010, except that an appointment to fill a vacancy shall be for the unexpired term only. For the year beginning the first day of August 2009 only, members recommended by Councilmembers in Districts 2, 4, 6, At Large, and the representative from the City Auditor shall be appointed to a one (1) year term, providing that they do not vacate their position or are not reappointed by their representative authority. Members may be reappointed to subsequent terms. If a member has not been reappointed or replaced upon the expiration of his or her appointed term, that member may remain in hold-over status for up to one (1) year, but may be replaced by the appointing authority at any time during the hold-over period.

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Amendment 1

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**ARTICLE XI
AMENDMENTS OF BYLAWS**

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ATTEST: _____
Jeff Baker
Staff to the Measure Z Committee