

Cannabis Regulatory Commission

Thursday, February 19, 2015, 6:30 p.m.
Council Chambers, City Hall, One Frank H. Ogawa Plaza

AGENDA

Members:

Dale Gieringer	District 1	Jacob Sassaman	District 7
Sean Donahoe	District 2	A. Kathryn Parker	At Large
Sierra Martinez	District 3	Vacant	Mayor
James Anthony	District 4	Amanda Reiman	City Auditor
Matt Hummel	District 5	Joe DeVries	City Administrator
Marlon Hendrix	District 6		

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MEETING AGENDA

- A. Roll Call and Determination of Quorum
- B. Open Forum / Public Comment
- C. Review of the Pending List and Additions to Next Month's Agenda
- D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of 1-29-15.
- E. Reports for Discussion and Possible Action
 - 1. Discussion and action on the recommendations to the City Council Public Safety Committee regarding the City's proposed Cannabis Cultivation Ordinance.
 - 2. A discussion and action on the 2014 Annual Report (Attached)
 - 3. A discussion of "Do's and Don'ts for Measure Z Clubs (list attached)
 - 4. An update on efforts at Statewide Legalization in 2016 (Reiman)
- F. Announcements
- G. Adjournment

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 Cannabis Regulatory 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 Cannabis Regulatory 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 Cannabis Regulatory Commission at (510) 238-3301.

To: Oakland City Council Public Safety Committee
From: Cannabis Regulatory Commission
Re: 2014 Annual Report
Date:

Introduction

We are pleased to submit the Annual Report of the Cannabis Regulatory Commission (Commission) for the 2014 calendar year. Pursuant to City Council Ordinance No. 12694 C.M.S., the Commission is charged to “(a) advise the City Council of concerns, issues regarding the lowest law enforcement [priority] policy for private adult cannabis offenses; (b) make recommendations to the Council regarding policy implementations; and (c) report annually to the Council on the implementation of Measure Z.”

The Commission met eight times in 2014. At the start of the year, 10 seats were filled. In June, Tyson Nagler (District 2) vacated his seat. In October, Sean Donahoe joined the Commission, filling the District 2 vacancy. At the end of the year, the Commission again had 10 members. The Mayor has yet to appoint someone to fill the vacancy created when Leslie Bonett resigned from the Commission in December 2013.

Because Leslie Bonett was still serving her term as Chair of the Commission when she resigned, the Commission elected an interim Chair and Vice Chair. Matt Hummel was elected as Interim Chair, and Kathryn Parker was elected Interim Vice Chair. In April, Mr. Hummel and Ms. Parker were elected to full terms as Chair and Vice Chair, respectively.

Primary Discussion and Action Items

I. Monitor OPD Compliance with Measure Z

a. OPD Activity at Unlicensed Dispensaries

In 2014, the Commission’s discussion focused largely on OPD’s activity at unlicensed dispensaries. The Commission is aware of at least five search warrants OPD executed on these unlicensed dispensaries with SWAT-style force between December 2013 and July 2014. While the Commission understands the City cannot ignore complaints and agrees the City should have the authority to close unlicensed businesses, executing search warrants with SWAT-style force is not the way to respond. It is a waste of Oakland’s limited resources to handle complaints in this manner. The City should respond to these complaints through the established administrative process in the nuisance-abatement department, which does not involve OPD except under extreme circumstances.

Making all cannabis offenses lowest law enforcement priority is another way the Council could prevent the City from using unnecessary resources to enforce a law the people of Oakland believe should be repealed (Prop 19, which would have legalized possession, use and sales of cannabis, passed Alameda County with 56% of the vote, and Measure Z passed with 65% of the vote.) **If the City Council passed a resolution making all cannabis offenses the lowest law enforcement priority, OPD would be able to better focus its limited resources on the crime that hurts Oakland's communities.** This would also resolve the Commission's long-standing dispute with the City Attorney's office regarding the definition of "private," which continues to be a topic the Commission discusses regularly.

b. OPD's Annual Report to the Commission

In August, Assistant Chief Paul Figueroa and Lt. Tony Jones presented OPD's annual report with the 2013 arrest data for cannabis-related offenses. Once again, the Commission received a thorough report from OPD, which included demographic data to better enable the Commission to evaluate the Police Department's compliance with Measure Z. (See Attachment A.)

As in past years, the Commission remains concerned with the racial disparity in enforcement – 96% of those cited or arrested for possession, cultivation, or sales of cannabis in Oakland in 2013 were people of color. However, the Commission is encouraged by Assistant Chief Figueroa's dedication to evaluate and combat this racial disparity through the Department's work with Stanford Researcher Jennifer Everhardt to analyze OPD's 2013 stop data, which includes a sampling of the cannabis arrests from 2013. The Commission hopes OPD will stay dedicated to this work and eradicate racial disparity from its enforcement of the law.

II. Cannabis Regulations

a. Cultivation Regulations

In 2014, the Commission's Cultivation Regulation Research Committee continued its work researching options for cultivation regulations in Oakland. The committee worked on model language for modifying Oakland's regulations for cultivating cannabis in light of community members' concerns regarding large cultivation sites in Oakland. In December, this Committee (the Public Safety Committee) requested the Commission review and comment on the proposed amendments to Oakland Municipal Code 5.80, Medical Cannabis Dispensary Permits, which the Commission will present in a separate report.

b. Licenses for On-Site Consumption

The Commission discussed a potential licensing system to allow on-site consumption of cannabis in private social clubs. The motivation behind these licenses is to foster community development, bring business to Oakland to increase revenue, and encourage cannabis consumption in a private facility, rather than in public. The licensing system would allow a venue to have a permanent or temporary license permitting on-site cannabis consumption. The vision is to create a community-center-like space that provides a safe space for people to engage with their neighbors and consume cannabis in private, generating revenue for the community.

c. Reducing Waste

The Commission discussed ways to better dispose of waste associated with cannabis cultivation, including pesticides, fertilizers, unused plant material, soil, rockwool, and other growing materials. The Commission consulted with Alameda County's Household Hazardous Waste Management and the Alameda County Department of Agriculture as a part of its discussion to make sure any solutions could be implemented with the resources currently provided in the county.

The Commission also discussed ways to reduce waste from packaging used for retail cannabis sales, including a deposit/return system for glass jars often used to package cannabis for retail sales.

d. Potential Economic Benefits

The Commission is working to prepare Oakland for regulating adult cannabis use and sales to maximize revenue for the community. The Commission plans to work with the City Auditor's office to prepare a financial analysis of the fiscal impact and potential revenue of regulated cannabis sales to adults.

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Sean Donahoe

To: Oakland City Council,
Public Safety Committee

From: Matt Hummel, Chairperson,
Oakland Cannabis Regulatory Commission

Date: February 17, 2015

Re: Amendments to Chapter 5.80 of the Oakland Municipal Code (Cannabis Cultivation)

On December 16th the City Council Public Safety Committee received a recommendation from staff to modify Oakland Municipal Code (OMC) 5.80, Medical Cannabis Dispensary Permits, to provide for a secondary special business permit for City of Oakland licensed medical cannabis dispensaries to operate a closed-loop dispensary cultivation facility.

At the close of the deliberation the Committee voted to ask the Cannabis Regulatory Commission to provide recommendations on the Ordinance and on Council Member Kalb and Kaplan's proposed amendments that were submitted in a separate memo.

The Cannabis Regulatory Commission conducted a Special Meeting on January 29th to discuss the ordinance and proposed amendments and developed the below recommendations. During the meeting the Commission received input from City Staff, current dispensary operators, consumers, and representatives of other cannabis related businesses.

The Commission strongly supports the City moving forward and regulating cultivation of cannabis more broadly than the current Ordinance allows. Oakland led the State in developing regulations for personal gardens for individual patients and their caregivers and also led in efforts to create a regulatory system for its dispensaries. However, there exists a large gap in the "Seed to Sale" supply chain for medical cannabis and related products (such as edibles and tinctures) and the Commission sees the renewed discussion around cultivation as an opportunity to close that gap. The Commission also sees the timeliness of this conversation in anticipating changes to state law that may occur in 2016 when many believe all adult cannabis use will become legal in California. If the City has a well-developed set of regulations for cultivation, it could again lead the way in Californian's road toward a well regulated Cannabis Industry.

In discussing the ordinance, the Commission first voted on each of Council Members Kalb/Kaplan's suggested amendments and then discussed other changes to the Ordinance that it sees as important:

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1. Remove restriction in Section 5.80.020 (D)(1) that dispensaries cannot be near each other:

The Commission voted to support this amendment and passed a separate motion to also remove the restriction of parks and recreation facilities.

2. Modification of limitation to who can hold a cultivation facility business permit to allow not only medical cannabis dispensary permit owners, but to also allow other qualified Oakland residents who demonstrate that they have a contract with one or more Oakland medical cannabis dispensaries to sell their product to that dispensary:

The Commission voted to support this amendment but recommend it not be implemented for nine months so that several complex policy concerns can be further evaluated. Also, the Commission voted to remove the contract requirement for cultivators because it was argued that many legitimate growers are not selling to dispensaries but instead providing it for alternate uses such as edible products. Also, it was noted that the dispensaries in Oakland do not necessarily purchase cannabis from Oakland growers nor do Oakland growers necessarily sell to Oakland dispensaries. Many people who spoke indicated that the current proposed ordinance does not acknowledge these growers exist and could drive them further underground by creating new penalties against them.

3. Add environmental criteria (such as offsetting their carbon footprint) to the permitting process when considering approval of cultivation facility business permits.

The Commission voted to support this amendment.

4. Reducing the timeframe (from one year to two months) by which a facility cultivation business permit holder may apply for a permit that allows for a larger than 10,000 square foot cultivation facility.

The Commission took no position on this amendment. During discussion it was noted that because cannabis grows on a three month harvest cycle, changing the timeframe from one year to two months is meaningless because any dispensary could seek a larger grow allowance two months into growing their first crop and the City would not be basing its decision on any relevant data.

5. Require the City Administration to return to the Council's Public Safety Committee within six months a proposed ordinance to permit onsite non-smoking medical cannabis consumption at licensed medical cannabis dispensaries:

The Commission voted to support this proposal. The Commission has had lengthy conversations about the need to modify the City's smoking ordinance or somehow create a way to allow on-site consumption of cannabis at licensed facilities. For many years patient advocates have pointed out that many low-income patients who suffer from chronic disease often do not have a safe place at home to consume their medicine and therefore allowing on-site consumption is an act of compassion to those most in need. If the City were to make this modification, the Commission has a lot of

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research on what other jurisdictions have done and would welcome the opportunity to provide its insight to the City.

6. Require the City Administration to return to the Council's Public Safety Committee within six months with an analysis and recommendations regarding increasing the number of medical cannabis dispensary permits allowed in the City of Oakland:

The Commission voted to support this proposal. In light of the fact that there are many unregulated "Measure Z" clubs, the Commission believes the City would benefit from lifting the restriction on the number of licensed dispensaries and allowing the market to decide the most viable number. Also, in anticipation of major changes in 2016, if there were more licensed dispensaries now, the transition to a fully legal cannabis industry would be smoother.

There were two portions of the current proposed Ordinance that the Commission also took an official position on:

Modify Section 5.80.010 C. regarding the definition of a dispensary:

The current language reads:

"Cannabis dispensary" or "Dispensary" shall mean a collective or cooperative that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away marijuana in the City for medicinal purposes to four or more qualified patients and/or primary caregivers pursuant to California Health and Safety Code Sections 11362.5, 11362.7 et seq.

The proposed change is:

Cannabis Dispensary or "Dispensary" means a collective, cooperative, or other entity that distributes, dispenses, exchanges, delivers, makes available, transmits, or gives away medical cannabis in the City of Oakland at retail directly to individual Patients...

The key difference from the current proposed definition is the elimination of the uses "stores" and "processes" and also further refines the definition to clarify it refers to cannabis sold "At Retail." This will help avoid a legitimate grower who provides their surplus to an establishment that is involved in producing edibles to be permitted while also delineating that if one is selling cannabis at retail, they are considered a dispensary and the normal regulations would apply.

Modify Section 5.80.025:

The current language reads:

Any use or activity that involves possessing, cultivating, processing and/or manufacturing more than 9 pounds of dried cannabis or 96 square feet of cultivation area shall constitute cultivation of

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medical cannabis and shall be subject to administrative citation, pursuant to Chapters 1.08, 1.12 and/or 1.16, and other applicable legal, injunctive or equitable remedies, unless a permit as

prescribed in this Chapter has been granted. Possession of other types of State or City permits or licenses does not exempt an applicant from the requirement of obtaining a permit under this Chapter.

The Commission is recommending this language be changed to:

Cultivating more than 9 pounds of dried cannabis or 96 square feet of cultivation area shall constitute cultivation of medical cannabis and may be subject to administrative citation, pursuant to Chapters 1.08, 1.12

This makes the definition more accurate and specific and avoids the City accidentally criminalizing someone who is not involved in cultivation but is involved in the industry. For example, all licensed dispensaries currently have their product tested for purity and the lab that conducts those tests does, in fact, store large amounts of cannabis as part of their work. The current proposed definition would put them in violation of the ordinance.

The Commission welcomes the opportunity to continue to provide input on these very important issues.

Thank you for your consideration,

Matt Hummel, Chairperson