

Cannabis Regulatory Commission

Thursday, November 19th, 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		

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

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 10-16-15
- E. Reports for Discussion and Possible Action
 - 1. Discussion and Action on the draft Biannual Report to the Public Safety Committee (attached)
 - 2. Update on the City's Draft Modified Dispensary Ordinance and Cultivation/Manufacturing Ordinance. (Attached)
 - 3. An update on efforts at Statewide Legalization in 2016
- 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 a 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.

Cannabis Regulatory Commission

Thursday, October 15th, 2015, 6:30 p.m.

MEETING MINUTES

Hearing Room 2, City Hall, One Frank H. Ogawa Plaza

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

Members Present: Gieringer, Donahoe, Anthony, Hummel, Parker, Reiman, DeVries

Members Absent: Martinez, Hendrix, Sassaman

B. Open Forum / Public Comment

There were no Open Forum Speakers.

C. Review of the Pending List and Additions to Next Month's Agenda

Vice-Chair Parker asked that the Commission schedule a discussion of the Annual Report for the November meeting.

~~D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of 7-16-15~~

This item was not heard.

E. Reports for Discussion and Possible Action

1. Discussion and Action on the City's Draft Modified Dispensary Ordinance and Cultivation/Manufacturing Ordinance. (Attached)

The Commission heard an extensive presentation from Assistant to the City Administrator Greg Minor who drafted the modified ordinances. He pointed out several components that had changed since the last drafts were

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discussed including allowing for vaporization on site, eliminating site distance requirements, and acknowledging the existence of delivery services that pose a different set of concerns than a brick and mortar dispensary.

There were several public speakers as listed below:

Andrew DeAngelo: Stated that his dispensary (Harborside) along with the other licensed dispensaries in Oakland were forming a Council that would be carefully reviewing the draft ordinances and would provide more feedback later but applauded the City's initial effort at bringing new regulations to the industry.

Helen Cobb: Is the Manager at Telegraph Health Collective (THC) and stated that their vision was to create a welcoming family environment to patients and that they support free trade but have concerns that need to be "unraveled" before eliminating the limit.

Laron (?) also works at THC and stated that it has been a wonderful opportunity.

William Barakett also works at THC and advocated slowing down the permitting process for new dispensaries.

Tywain Willis also works at THC and suggested taking more time to permit new dispensaries.

Patrick Lynch also works at THC and suggested that because medical marijuana is so important, the City should take its time to make sure solid regulations are in place before changing the current system.

Will Malchow, a processor for THC noted that the dispensary builds community and is not just in it for the money.

Valencia Savidge, also a THC employee urged the Commission to be careful about the number of dispensaries and the quality of service they provide.

Tiffany Hill, also with THC stated that this particular dispensary is improving the neighborhood and is about health care, not just money.

Laura Blair, representing THC, noted that she served as a Neighborhood Law Corps Attorney for the city and her job was to tackle problem properties in Oakland. THC is located at one of those formerly problem properties and the dispensary turned that around completely and is now an asset to the neighborhood.

Matt Witemyre spoke in favor of lifting the limit on dispensaries and in full support of Rob Raich's letter to the Commission. He also noted the need for a "distributor" license for Oakland to align with State Law. He pointed out that with a small number of permits; sometimes people will do bad things to get those permits (citing the San Leandro permitting process and recent federal indictments).

Rob Raich, as well as submitting written comments, noted that it makes sense to have a separate section for Delivery Services. He also emphasized his support of lifting any caps on dispensaries and allowing the market to decide the right number.

Alex Zavelle stated that he felt current operators should have a priority in receiving licensure in the interest of fairness, especially if the state ends up having a limited number of licenses. Regarding the issue of caps, he

noted the concept of Regulatory Capture was at play in that the small group of permitted businesses wants to prevent anyone else from acquiring permits.

Mickey Martin, representing Magnolia Wellness stated they supported more dispensaries but asked that the City reduce its fees by half to \$30,000 annually.

After lengthy discussion the Commission voted (with one abstention) to support the two draft ordinances with the following amendments:

Proposed Amendments to Chapters 5.80 and 5.81

1. Create separate licenses for delivery and brick and mortar dispensaries
2. Increase the cap for personal cultivation to match the new state law
3. Remove "ingested or otherwise consumed" from Chapter 5.80.040(A) to allow on-site consumption of edibles
4. Remove "no more than sixteen" and the entire second sentence of Chapter 5.80.020(C) to remove the cap on the number of dispensaries allowed
5. Remove all references to the Attorney General's guidelines
6. Include a distributor license
7. Include a nursery licenses, in line with the new state law
8. Remove "or a testing laboratory" from Chapter 5.80.010(F)
9. In Chapter 5.81.010, add priority for currently state-compliant facilities
10. As the number of dispensaries increase, proportionally decrease the annual fee for a dispensary permit

Staff explained that the drafts would be heard by the Public safety Committee in November or December depending on several internal factors. (**Currently the items are scheduled to go to the Public Safety Committee on December 15th**).

2. An update on State Legislation (see links below)

There was no action taken on this item.

3. An update on efforts at Statewide Legalization in 2016

Member Gieringer announced that Reform CA just filed initiative language that takes MMRSA into account.

Links to text of CA Legislation:

AB 266 https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB266

AB 243 https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB243

SB 643 https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB643

E. Announcements

Member Reiman announced that the Drug Policy Alliance would be holding its Annual Conference in Washington DC next month.

To: Oakland City Council Public Safety Committee
From: Cannabis Regulatory Commission
Re: 2014-2015 Biennial Report
Date:

Introduction

We are pleased to submit the 2014-2015 Biennial Report of the Cannabis Regulatory Commission (Commission). 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.”

We apologize for the delay in providing a report on our activities in 2014. We prepared our report, and the Commission approved it for submission to this Committee at our February 2015 meeting. However, we delayed submitting the report so it could accompany our report to this Committee on the proposed changes to Chapters 5.80 and 5.81 of the Municipal Code. Unfortunately, this Committee is just now hearing that item; since we’ve concluded our work for 2015, we decided to include a report on our activity this year, too.

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 2014, the Commission again had 10 members. When Leslie Bonnett resigned in December 2013, she was still serving as chair, so 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 2014, Mr. Hummel and Ms. Parker were elected to full terms as Chair and Vice Chair, respectively.

The Commission met seven times in 2015. No commissioners resigned or joined the Commission in 2015. However, Marlon Hendrix’s (District 6) term expired. There are currently nine members serving on the Commission since the Mayor has yet to appoint someone to fill the vacancy created when Leslie Bonett resigned from the Commission two years ago. This constant vacancy puts an extra strain on the Commission to meet quorum each month.

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 2015 Annual Report to the Commission

In June 2015, Captain Kirk Coleman and Sergeant Tam Dinh presented OPD's annual report with 2014 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 – 94% of those cited or arrested for possession, cultivation, or sales of cannabis in Oakland in 2014 were people of color.

c. OPD's 2014 Annual Report to the Commission

In August 2014, Assistant Chief Paul Figueroa and Lt. Tony Jones presented OPD's annual report with 2013 arrest data for cannabis-related offenses. Again, the Commission received a thorough report from OPD. (See Attachment B.)

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. The Commission was encouraged by Assistant Chief Figueroa's dedication to evaluate and combat this racial disparity through the Department's work with Stanford Researcher Jennifer Eberhardt to analyze OPD's 2013 stop data, which includes a sampling of the cannabis arrests from 2013. We were also encouraged that OPD invited Member Martinez to serve on OPD's committee to review stop data. Unfortunately, Member Martinez reports this group has been slow to provide the data promised and has yet to actually meet to discuss it. The Commission hopes OPD will stay dedicated to this work, resume course with this project, and eradicate racial disparity from its enforcement of the law.

II. Cannabis Regulations

a. Proposed Amendments to Chapters 5.80 and 5.81

The Commission spent the majority of its time in 2015 discussing the City's proposed amendments to Chapters 5.80 and 5.81 of the Municipal Code. When this Committee first discussed these amendments in December 2014, the Commission already had a model cultivation ordinance ready because in 2014 the Commission's Cultivation Regulation Research Committee continued its work researching options for cultivation regulations in Oakland and drafted model language for modifying Oakland's regulations for cultivating cannabis in light of community members' concerns regarding large cultivation sites in Oakland.

In February, we drafted a report to this Committee summarizing our opinions on the proposed amendments to Chapters 5.80 and 5.81 at that time. (See Attachment C.) The City took these comments, as well as the comments we made at our July and October meetings seriously and incorporated many in the draft presented to this Committee today. We are appreciative of the work Greg Minor has put into this, as well as the time he has taken to speak with the Commission. After much discussion and feedback from community members, the Commission supports this current draft, though we would like to see the following amendments:

Proposed Amendments to Chapters 5.80 and 5.81

1. Create separate licenses for delivery and brick and mortar dispensaries
2. Increase the cap for personal cultivation to match the new state law
3. Remove “ingested or otherwise consumed” from Chapter 5.80.040(A) to allow on-site consumption of edibles
4. Remove “no more than sixteen” and the entire second sentence of Chapter 5.80.020(C) to remove the cap on the number of dispensaries allowed
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9. In Chapter 5.81.010, add priority for currently state-compliant facilities
10. As the number of dispensaries increase, proportionally decrease the annual fee for a dispensary permit

The Commission is aware the existing permitted dispensaries have formed a coalition opposing the current draft, and especially oppose increasing the number of allowed dispensaries. However, their opinion does not reflect that of the community, which has been presented to the Commission at our many meetings this year discussing this topic.

We are glad this Committee provided the Commission with the opportunity to make recommendations regarding medical cannabis regulations, giving the community a space to have its voice heard in this process and effectively expanding the purview of the Commission. We hope this Committee will consider making this change official and recommend to the full City Council amending Ordinance No. 12694, Section 1 to read:

Section 1. It shall be the function and duty of the Community Oversight Committee to oversee implementation of the Lowest Law Enforcement Priority Policy and ensure timely implementation of Measure Z by:

- a. advising the Council of concerns, issues regarding the lowest law enforcement policy for private adult cannabis offenses;
- b. making recommendations to the Council regarding the policy implementation; ~~and~~
- c. *making recommendations to the Council regarding all cannabis policies, including use, sale, cultivation, distribution, and preparation for medical and non-medical purposes; and*
- ed. reporting annually to the Council on the implementation of Measure Z

b. Licenses for On-Site Consumption

In 2014, 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. The Commission tabled this project in 2015 to focus on the proposed amendments to the Municipal Code and advocate for on-site consumption in permitted dispensaries.

c. Reducing Waste

In 2014, 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.