

Cannabis Regulatory Commission

Regular Meeting

Thursday, August 18th, 2016, 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	Sunshine Lencho	Mayor
Vacant	District 4	Amanda Reiman	City Auditor
Matt Hummel	District 5	Joe DeVries	City Administrator
Terryn Buxton	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 7-21-16.
- E. Reports for Discussion and Possible Action
 1. Discussion and Action on the Oakland Police Department Report on 2015 Citations and Arrests for Marijuana Offenses (Attached)
 2. A continued discussion on the recommended amendments to the Equity Program portions of 5.80 and 5.81
 3. A continued discussion and possible action on Proposition 64. See link for text of the measure:
[https://ballotpedia.org/California_Marijuana_Legalization_Initiative,_Proposition_64_\(2016\)](https://ballotpedia.org/California_Marijuana_Legalization_Initiative,_Proposition_64_(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 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.

Cannabis Regulatory Commission

Regular Meeting

Thursday, July 21st, 2016, 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	Sunshine Lencho	Mayor
Vacant	District 4	Amanda Reiman	City Auditor
Matt Hummel	District 5	Joe DeVries	City Administrator
Terryn Buxton	District 6		

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MEETING AGENDA

- A. Roll Call and Determination of Quorum
- B. Open Forum / Public Comment

Jeffrey Lee spoke about his concerns that the Asian American Community will be excluded from participating in the Cannabis Equity Program. Many Asian Americans need Medical Cannabis but don't know where to get it and he noted that his community is not represented in the cannabis community even though they represent 20% of the Oakland population.

Iona Heald (sp?) spoke about her long standing efforts in the cannabis community and wanted to call the CRC's attention to a policy regarding TSA at the airport. People are being arrested by Sherriff's deputies at the airport who are then being prosecuted by the District Attorney as felonies in contradiction of City policy.

Tina Suk has been attending CRC meetings for 6 months and is also concerned that Asian Americans are not well represented in the Cannabis industry in Oakland. Only dispensaries in San Jose have Korean, Mandarin, and Vietnamese speakers who can assist such customers. Asian-American Oaklanders would rather keep their business in Oakland and need businesses that can meet their needs.

Robert Raich also raised the concern mentioned by Iona. He noted that when OPD patrolled the airport, the city policy was respected and patients were allowed to board airplanes with medical cannabis. However, when OPD experienced a shortage of officers and enforcement activity at the airport was transferred to the Alameda County Sherriff, the policy was not honored and that was when arrests started to take place. He encouraged the CRC to ask the City to intervene and instruct the Sherriff to abide by Oakland policy.

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Jennifer George, a dispensary owner in the bay Area, noted that the current equity program will force out businesses like hers who neither qualify for the Equity Program or are very wealthy and have the capital to compete for a dispensary permit. She runs a small delivery-only service.

Asante Davis asked if the Equity Program assists those that have only been charged with a cannabis offense but not convicted as is very common. He also suggested the program should apply to people who graduated from Oakland public schools but have been priced out of Oakland due to the high cost of housing.

Yaya Ebibirman spoke about the equity needs in all of East Oakland and the fact that for forty years the community has been in a downturn due to the War on Drugs. She emphasized the need for new businesses to help rebuild East Oakland.

Michael Allaire spoke about the need to keep home-grower's licensing on the radar of the Commission and the City/State. He noted that AB 2516 got out of committee in the State Assembly and will create a new licensing category if it passes.

Adolph Worth spoke about the Equity Program and his belief that it was written to benefit certain people but those people will actually be priced out by the larger interests because they don't have the capital to compete. He also raised concerns about the 50% ownership requirement because it is a difficult goal to achieve and believes this is setting people up to fail. Last, he suggested there be a "Community Benefit" program built into the process for awarding permits.

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

The Commission scheduled a continued discussion of the City's Equity Program for the August meeting and it was confirmed that the OPD Report on 2015 arrests would also be available in August.

D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of 6-16-16.

The minutes were approved with some minor edits.

E. Reports for Discussion and Possible Action

1. An update on the recommended amendments to the Equity Program portions of 5.80 and 5.81

Chairperson Hummel provided a copy of the letter submitted by Council Member Brooks to the Rules Committee in July regarding proposed amendments to the Equity Program. He noted that his original recommendation to reduce the ownership requirement to 25% was designed to allow greater access to the industry. However, based on CM Brooks and others reactions he sees that this recommendation has been interpreted as an attempt to water down the program and therefore is proposing removing it.

Member Reiman noted that the Commission and the members of the public who have expressed concerns about the program are interested in lowering barriers to access the industry but that there may some differences of opinion about how to go about doing this. She suggested that CM Brooks may see the CRC as trying to degrade her efforts and it is important for her to hear from community members about their concerns (as opposed to hearing from the commission).

Member Lencho suggested that CM Brooks letter indicates she wants staff to further analyze the recommendations of the CRC and Member Lencho asked what that analysis would look like between now and the September 27th Public Safety Committee.

Joe DeVries clarified that CM Brooks letter calls for staff to immediately implement the ordinance (which staff is doing) and that in six months staff come back with an analysis of the data. The September 27th meeting was chosen by the Rules Committee and the Council can keep that date or change it depending on a number of factors (including whether there is really enough data to assess the program at that point). He also noted that CM Brooks request for community meetings is in line with what staff was planning to do in August already in an attempt to connect more Oaklanders to the application process and to connect employers with potential employees in the industry. This would be similar to the meeting this afternoon in which 300 people participated in.

Based on the conversation and the general reaction to the 25% recommendation, Member Buxton made a motion to remove that recommendation from what the CRC submits to the City Council.

Chairperson Hummel asked for public comment:

Michael Gray spoke in favor of keeping the ownership requirement at 50% (or higher) based on the experience of the African American Community over the past thirty years as the main target of the drug war. He also noted that the money being made by the cannabis clubs needs to stay in Oakland and as a community we need to do whatever it takes to keep that money here. He referenced all of the support businesses needed to support the industry, from paper suppliers to contractors should be Oakland based to see that Oakland communities benefit.

Benjamin Davis spoke about his personal experience with cannabis and how it helped him overcome health issues including addressing PTSD as well as favorable impacts on his dietary interests. Therefore he supports anything Oakland can do to allow the industry to expand successfully.

Dustin Torsin spoke favorably about the CRCs recommendations and the intent to increase access to the industry for communities that have been locked out.

Willy Cook spoke in favor of keeping the ownership requirement at 50% to ensure that Equity Applicants get their fair share of a business—in other words, if the requirement is lowered to 25% then he believes the non-equity owner will never relinquish more than 25% ownership in the business.

Josh Veal spoke about his experience as a cultivator for over 20 years. He is more concerned with how any applicant will get the capital they need to build out a business and whether they will have the knowledge to develop their business successfully. He has concerns that the Equity Applicants will be prey to investors who are skilled outsiders.

Peter Cervantes asked about how the law defines incarcerated. Staff noted the ordinance language says incarcerated for a conviction.

Orville Meaux spoke in favor of keeping the ownership requirement at 50%. He also noted that, as an Oaklander, he is confident he can raise the necessary capital. He also supports reviewing the program after 6 months when there is real data to study.

Chairperson Hummel restated the motion; it was seconded by Member Sassaman, and passed with four yes votes and two abstentions.

2. A discussion of the recent raid on a Santa Rosa extraction facility.

Since the charges in this raid were dropped, the item was removed.

3. A discussion and possible action on Proposition 64. See link for text of the measure:
[https://ballotpedia.org/California_Marijuana_Legalization_Initiative,_Proposition_64_\(2016\)](https://ballotpedia.org/California_Marijuana_Legalization_Initiative,_Proposition_64_(2016))

Member Reiman asked staff whether the CRC could endorse Prop 64 and if not, what they could do. Joe DeVries clarified that the CRC does not have the authority to endorse an initiative but instead can recommend to the City Council that they adopt a resolution endorsing Prop 64.

Member Reiman made a motion that to recommend the City endorse Prop 64 consistent with the CRC role as created by Measure Z. Member Parker seconded the motion.

Member Lencho asked if the CRC would first review the concerns raised about the proposition by NORML (among others) before recommending endorsement. She aired concern that the CRC move to endorse too quickly. Member Reiman clarified that her motion is to open discussion.

Joe DeVries suggested that the CRC hear an overview of the initiative and the concerns about it for the good of the audience and the committee members before taking a vote. He noted that the City Council goes on recess in August so there is time to make a recommendation to them.

Member Reiman gave an overview of the key points of the initiative. Member Sassaman raised some concerns about how many plants can exist in a household. Member Reiman clarified that within one house the limit is pretty high but if transporting it, the amount one can have in a car is lower. She went on to note that there are parts of the initiative that are annoying in areas that have already embraced cannabis legalization but that is because the initiative needs to appeal to areas that are less evolved where medical cannabis is still a problem. Her main priority is ending cannabis prohibition to stop the incarceration it causes statewide.

Joe DeVries reminded commissioners that when the public defender addressed the CRC years ago, they noted that cannabis is often used as probable cause when stopping people who then get searched and hit with other charges and if ending prohibition can remove this problem it will have a profound effect on the criminal justice problems in the state.

Member Sassaman noted that even though he has concerns, he agrees that it's important to be united in support of ending prohibition.

Member Donahoe noted that the CRC is a known commission with a record of being very deliberative in examining cannabis policy and therefore has a duty to make a recommendation that includes potential legislative fixes.

Member Lencho agreed and pointed out that there are many impacts to passage of this initiative and other areas that will not be impacted. For example, it does not prohibit employers from drug testing and terminating employees who use cannabis. She is concerned that some people, in particular in minority communities, will not be aware of these nuances and will still be negatively impacted.

Ellen with California NORML addressed the CRC and suggested a resolution be passed regarding legislative fixes at the same time as an endorsement so that later there is a path to repairing it. She provided a letter from NORML addressing concerns as well as a model resolution that includes recommended legislative fixes.

Alex Zavelle spoke about certain prohibitions in the initiative that can still negatively impact people (such as getting cited for consuming in public) which can get one pulled into the court system leading to warrants,

increased fines, etc. He also supports the CRC raising the concerns and need for legislative fixes down the road.

Paul Simonian mentioned a serious concern is the issue of NEW opportunities for law enforcement to have interaction with consumers—specifically he is worried about new DUI standards that could be applied that could increase incarceration for those who fail arbitrary roadside drug tests.

Member Reiman noted that Prop 64 does not have an arbitrary roadside test written into it but instead calls for more research to be done.

Michael Allaire also spoke in favor of an endorsement with suggested remedies such as addressing home growers (which Prop 64 does not do).

Max Hedstall (sp?) raised concerns about Prop 64, specifically about large scale grows that will be allowed in five years and the tracking of individual plants. The more sophistication that is required, the harder it will be for the small business person to enter the market successfully.

Member Reiman tabled her motion to recommend endorsement to allow for further discussion in August about legislative fixes.

4. A discussion regarding the use and disposal of butane in the production of cannabis extracts.

Member Sassaman recapped his research regarding the problem of disposing of butane canisters. He did find one facility that will accept butane canisters for free as long as the can has a puncture hole in it and the nozzle knocked in. ALCO on Doolittle Drive in San Leandro is that facility and he would like to get this word out to the broader community.

Chairperson Hummel asked if this could be promoted on the CRC webpage and Joe DeVries noted that it would be in the meeting minutes but not “promoted” on the website.

Member Lencho asked if this info could be distributed administratively to permit applicants and Joe DeVries said it could be. Member Buxton suggested a sign be posted at any smoke shop that sells these canisters as to where customers can dispose of them. Member Sassaman will bring back language that can be distributed.

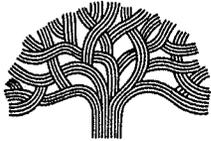
5. An overview of the informational workshop provided for potential cannabis operator permits.

It was noted that the PowerPoint would be online and over 300 people were in attendance.

F. Announcements

G. Adjournment

The meeting adjourned at 8:30.



CITY OF OAKLAND

MEMORANDUM

TO: Cannabis Regulatory Committee

FROM: Oakland Police

SUBJECT: Citations & Arrests for Marijuana Offenses - 2015 **DATE:** August 15, 2016

Background

The Oakland Cannabis Regulation and Revenue Ordinance (aka Measure Z), passed with the support of 65 percent of Oakland voters on November 2, 2004. The ordinance became effective on December 7, 2004. Measure Z provides that the City of Oakland make the enforcement of laws related to the private adult cannabis (marijuana) use, distribution, sale, cultivation and possession, the City's lowest law enforcement priority.

Measure Z does not change state or federal law, both of which prohibit non-medical cannabis use. The Oakland Police Department (OPD) maintains the discretion to continue law enforcement activities related to private adult cannabis offenses. Measure Z does not apply to minors, and thus Measure Z in no way mandates OPD to treat cannabis offenses committed by minors (possession, distribution or consumption) as a lowest priority.

In 2005, the Office of the City Attorney (OCA) defined private adult cannabis offenses that are covered by the lowest law enforcement policy as those that occur on private property and in a setting that is not in public. "Private" does not include commercial settings such as cafes, markets, retail outlets, cabarets or on City owned or leased property. The City Council amended the ordinance to include this definition of "private."

2015 Marijuana Citations & Arrests

In 2015, OPD cited 221 persons for possession of less than one ounce of marijuana under Section 11357(b) H&S (Health and Safety Code), which equates to a 41 percent decrease from 2014 (**See Table 1 below**). Approximately 38 percent of incidents involved vehicle stops for traffic violations where marijuana was observed or found after the stop. A majority of the remaining incidents involved walking stops where persons were observed with marijuana in a public place.

Table 1: 2015 11357(B) Citations by Sex and Race

Race	Male	Fem	Total	Percent
African American	155	15	170	77%
Asian	3	0	3	1%
Hispanic	33	4	37	17%
White	6	0	6	3%
Other	5	0	5	2%
Total	202	19	221	100%

In 2015, eight individuals were cited for possession of more than one ounce of marijuana under Section 11357(c) of the California Health and Safety (H&S) Code.

In 2015, the Oakland Police Department's Homicide Section investigated eighty three deaths that were classified as homicides per Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR) guidelines. The motives in two of these homicides involved marijuana.

In 2015, OPD made 21 arrests for marijuana cultivation (Section 11358 H&S); about half of these arrests were made during investigations of other criminal offenses. The remaining arrests resulted from search warrants where marijuana and often firearms were found. Arrests for the sale of marijuana increased 12 percent from 238 in 2014 to 267 in 2015. Arrests involving the sale and transportation of marijuana decreased by 54 percent from 94 in 2014 to 43 in 2015. Police beats 34X, 30X, 27X and 32X had the highest number of arrests at 48, 27, 18 and 18 respectively. Tables 2 through 4 below provide an overview of marijuana arrests by sex, race and police beat.

Table 2: 2006 – 2015 Criminal Marijuana Arrests for Calendar Years

Statute	2006	2007	2008	2009	2010
Cultivation - 11358 H&S	9	13	29	37	58
Possession for Sales - 11359 H&S	311	508	618	571	517
Sales/Transportation - 11360(A) H&S	111	115	164	128	136
Total	431	636	811	736	711
Statute	2011	2012	2013	2014	2015
Cultivation - 11358 H&S	8	24	1	9	21
Possession for Sales - 11359 H&S	275	192	180	238	267
Sales/Transportation - 11360(A) H&S	29	33	55	94	43
Total	312	249	236	341	331

Table 3: 2015 Arrests by Sex & Race

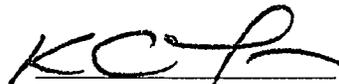
Statute	African American		Asian		Hispanic		White		Other		Total
	Male	Fem	Male	Fem	Male	Fem	Male	Fem	Male	Fem	
11358 H&S	2	0	5	0	7	1	4	0	2	0	21
11359 H&S	186	11	17	0	40	3	3	1	6	0	267
11360(A) H&S	34	2	1	0	3	0	2	0	1	0	43
Total	222	13	23	0	50	4	9	1	9	0	331

Table 4: Arrests by Beat

Beat	Arrests	Beat	Arrests	Beat	Arrests	Beat	Arrests
34X	48	06X	9	31Y	5	31Z	3
30X	27	04X	7	35X	5	99X	3
27Y	18	19X	7	05X	4	12X	2
32X	18	24X	7	05Y	4	14X	2
07X	15	27X	7	10Y	4	20X	2
21X	15	18X	6	29X	4	28X	2
26Y	15	21Y	6	32Y	4	11X	1
23X	13	30Y	6	02X	3	15X	1
33X	13	10X	5	03Y	3	22Y	1
03X	10	17Y	5	08X	3	25Y	1
02Y	9	18Y	5	26X	3		
Total	201	Total	70	Total	42	Total	18

City of Oakland Overall Crime Statistics

In 2015, the City of Oakland experienced a two percent Overall decrease in crimes classified as Part One Crimes by the FBI.¹ There was a five percent increase in murder, an eighteen percent decrease in shootings, a seven percent decrease in robberies, and a three percent decrease in residential burglaries.


Kirk Coleman
Captain of Police


Tam Dinh
Sergeant of Police

¹ Part One Crimes are murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft