

Thursday, November 17th, 2011, 6:00 p.m.

Draft Meeting Minutes

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

Members:

Dale Gieringer	District 1	Keith Stephenson	District 7
Vacant	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	Joe DeVries	City Administrator
Dhar Mann	District 6		

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

MINUTES

A. Roll Call and Determination of Quorum

Chairperson Lee, Bonett, Hummel, Gieringer, Mann, Everett, and DeVries were present.

B. Open Forum / Public Comment

Cecile Bernardi thanked: Joe DeVries for providing detailed minutes and updates, Member Gieringer for providing information about the smoking ordinance, and the rest of the members for continuing to be present to ensure a quorum.

C. Review of the Pending List

No changes were made to this list.

D. Approval of the Draft Minutes from the Measure Z Committee meeting of October 20th, 2011.

The minutes were approved by consensus.

E. Reports for Discussion and Possible Action

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.

1. A discussion on how Measure Z clubs could assist in the Medical Cannabis Distribution System in Oakland in light of the new Federal crack down on medical dispensaries.

Vice Chair Bonett opened with a request that anyone from the audience that has seen the impact of the federal actions please feel free to come up to the podium to speak. She noted that the State Attorney General, the Mayor of the City of Fairfax and the California Medical Association have sent letters opposing the action and she would like to see the Mayor of Oakland send a letter and the City Council pass a resolution as well. She would like to see "Occupy Cannabis" movements as millions of Americans are likely opposed to the federal action.

Chairperson Lee noted that this is an advisory committee and we can advise the council on the record but that the attack on dispensaries via the IRS, the DEA, and going after bank accounts and landlords, means that Measure Z clubs may provide the only safe access for patients.

Joe DeVries pointed out that since the Measure Z Oversight Committee is delivering a report to the Public Safety Committee in December, this issue could be raised either through a supplemental report or orally and that a Council Member could sponsor a resolution based on that recommendation. He noted that often the Council has taken a position on this issue in the past when the federal government was cracking down on dispensaries including a Declaration of Emergency that is twelve years old but still in effect today.

Robert Garcia, a public speaker came to the podium to say that as a resident, he would like to see his city government take a position supporting cannabis even if it is in opposition to the federal government. Chairperson Lee noted that there has not been much stated publicly from the city. Joe DeVries listed several instances where the city has taken a position against state or federal law but that recently the city has been "Pre-Occupied." He also asked what actions have occurred since the federal deadline passed; have clubs shut down.

Member Gieringer reported that there were some closures and some legal filings; there were four lawsuits asking for a Temporary Restraining Order (TRO) against the feds in each of the four federal districts, specifically in Los Angeles the judge denied the TRO because none of those clubs had received eviction notices. He did schedule a preliminary injunction for December. In the Southern District, the judge asked that the 4 suits be consolidated in the Northern District because there was a settlement in a case with the Women's Alliance for Medical Marijuana in which the Ogden Memo was cited and it was agreed that there would no longer be threats to collectives in California anymore. The recent action conflicts with that settlement. There will be a consolidation hearing about that. The Northern and Eastern Districts are waiting to determine if there will be a hearing.

Joe De Vries asked what we know about Oakland clubs. There was one publicly announced letter in the newspaper but Chairperson Lee stated that was an unconfirmed rumor. He did point out that Harborside was being threatened by the IRS.

Member Gieringer made a motion that the committee urge the City should pass a resolution denouncing the actions of all Federal Agencies including the DEA, IRS, and ATF. He also stated that the clubs that have initially been targeted have been good dispensaries and in compliance with local law, but that they have been politically active or vocal in the movement.

Chairperson Lee asked how far the memo should go. Should it include a Measure Z Club reference? Member Gieringer stated he did not think so and Member Hummel agreed. He stated that the City should wait until the “gauntlet is thrown down” and bring up Measure Z if clubs start getting shut down.

Member Everett stated that she finds it ironic that the city is moving ahead with the approval of four more dispensaries at the same time the federal government is threatening action against the current dispensaries. So we know where the City stands—in support of these dispensaries that will generate significant revenue for the City.

Member Mann stated that the Federal Government is claiming that they are going after big, monopolizing dispensaries. Measure Z offers the opportunity for many small scale dispensaries which prevents big, profiting clubs.

Brandon White, a member of the public, approached the microphone and asked if the committee thought that the Discovery Channel show “Weed Wars” would have any impact on what was going on currently.

Chairperson Lee urged people to come to the Public Safety Committee to speak directly to them about this situation.

Brian Moss, a member of the public, asked if OPD would cooperate with the DEA if the DEA decided to raid clubs. Chairperson Lee answered that OPD generally only secures the perimeter when the DEA makes a raid. They do not actively participate.

Joe DeVries concurred that OPD doesn't actively participate in DEA raids other than to direct traffic and secure the area.

Vice Chair Bonett noted that mentioning the strong support for Measure Z would be good and she noted that there were 25 members of the public in the audience. She feels strongly that all of our local officials should be vocally opposing the Federal action based on the support in the area. She wants to see a letter from the Mayor as well as a resolution. She also wants to include the revenue and the well-regulated system that is in place.

Joe DeVries made a procedural recommendation. Since the Committee's report is about to go to the City Council, he recommended that all of the points that are being raised tonight should be done at the Public Safety Committee both in a memo from the committee and from members of the public in general. Member Bonett emphasized the importance of moving this forward quickly.

Chairperson Lee asked the group what exactly we would put in the recommendation, including Measure Z and its interaction with the medical marijuana system. He feels that Measure Z is a partial answer to the medical dispensary problem and the council should at least reaffirm Measure Z. Member Hummel asked if including the Measure Z angle is a type of threat to the federal government—in other words, would the city be saying that it has an alternative if the medical clubs are shut down. Chairperson Lee affirmed this, pointing out that the reality is that private clubs will serve the medical community if the medical clubs are closed.

Member Hummel sees this as a message not to the federal government but to the patients of Oakland that this city has their interest and need in mind. Chairperson Lee stated that promoting the existence of Measure Z Clubs moves the entire issue of legalization forward and since the voters passed Measure Z overwhelmingly, it makes sense to ask the council to acknowledge them. Member Gieringer was concerned that this may cause an even bigger federal backlash.

Joe DeVries noted that asking the City Council to condemn the federal actions and asking them to promote Measure Z clubs were two very different actions and he would hate to get nothing from the council were we to ask for too much.

Vice Chair Bonett stated that a line in the resolution could be included that notes the voter support of Measure Z. Joe DeVries suggested that mention could be made of Oaklanders' support of Prop 19, and other measures that involve the regulated distribution of marijuana. Member Mann supported the idea of using the term regulated distribution versus Measure Z clubs. No matter what the federal government does, this committee and the City's voters have voiced their support of a regulated system.

After some procedural questions, the group voted unanimously to bring a thorough memo to the Public Safety Committee asking that the City Council pass a resolution opposing the Federal government's action and supporting a well regulated marijuana distribution system. T.C. Everett offered to take language to Council Member Kaplan so that she may draft a resolution.

Vice Chair Bonett made another motion that the committee ask the Mayor for a letter condemning the federal action. That motion passed unanimously.

2. A continuation of the discussion of the City's Smoking Ordinance and the City's current enforcement procedures.

Chairperson Lee first asked for any public comment. A. Kathryn Parker spoke to the Berkeley ordinance that was included in the packet. She noted that the portion of the ordinance in the packet did not explicitly allow cannabis smoking.

Member Gieringer agreed that what he had provided in the packet was incomplete and he would gather more of the information for future discussion. He went on to open the discussion around the city ordinance with concerns that Oakland's ordinance is so prohibitive that it is losing the city potential revenue. He cited his own organization as a prime example: the National Organization for the Reform of Marijuana Laws (NORML) will not hold its annual convention in Oakland because their attendees can't smoke marijuana in any of the potential convention locations.

Member Gieringer went on to point out that the City of Sebastopol has a very restrictive smoking ordinance but recently exempted Medical Cannabis from its ordinance. Also, San Francisco exempts dispensaries from its ordinance as well.

The fundamental point he wants to make is that cannabis smoking and tobacco smoking are absolutely different in terms of their impact on the public's health. He went on to point out that there are no studies linking cannabis to causing a second hand smoke cancer or other health problems. Therefore he feels we need to change the city's ordinance.

He recommends one of two ways to change the Oakland Ordinance: either exempt marijuana from the current ordinance or rewrite the current ordinance to address tobacco smoking only (thereby exempting things such as herbs, incense, etc.) Member Gieringer prefers the later of these two options.

Member Hummel also supports the idea of just changing the smoking ordinance to address tobacco smoking only. That way, there is no reason to mention cannabis.

Chairperson Lee would add two items: putting in language about proper ventilation and have a complaint clause to deal with situations where neighbors are complaining. He then asked if the committee would follow the same process as in the previous item, forwarding a recommendation to the council. Member Gieringer stated that he felt that would be the right approach.

Vice Chair Bonett raised a few concerns including the smoking in public places. She sees how this could become problematic in locations such as family restaurants where some clientele would be affected. She also was concerned about distinctions between dispensaries and other places such as hotels.

Member Gieringer noted that his goal currently was to take on the smoking issue in general, not the specifics of dispensaries versus other public or private places.

Member Everett asked if the committee is taking on the task of rewriting the ordinance or just recommending that staff rewrite it.

Joe DeVries suggested that anything we recommend, we do so in the upcoming annual report in March and that we need to be very clear about our intent. It is to allow people to smoke marijuana in certain venues (not just dispensaries). The council banned consumption in dispensaries so it may be a losing battle to suggest they allow consumption in other venues.

Joe DeVries went on to state that he felt it was important to meet with representatives of the Alameda County Public Health Department about the City's ordinance, the Sebastopol, and the studies that indicate there are no negative health consequences to marijuana smoke. He noted that the Public Health advocates were very persuasive in providing sound medical reasons to pass a restrictive ordinance. Without them in agreement with whatever we propose it is doubtful that the council would support any modification.

Member Gieringer concurred with that recommendation and the committee agreed to ask representatives from the Public Health Department and the American Lung Association to come the January meeting.

The group then discussed the different intents of the Smoking Ordinance (to prevent the impact of second hand smoke on people) and the intent of banning consumption of cannabis at dispensaries (to avoid liability if people were to consume and then drive, and the impact on neighbors) as different objectives.

Member Everett asked if we could try to have the guests come in December and if they cannot, we would cancel the December Meeting. Member Bonett thought that may be too soon as we do not have a lot to present to them.

Ultimately, the group voted to cancel the December meeting and invite the guests come to the January meeting.

F. Announcements

Chairperson Lee announced there is a Green Aid benefit on November 22nd at the New Parish on San Pablo.

Chairperson Lee announced his resignation from the Oversight Committee due to a potential conflict of interest. Vice Chair Bonett thanked Mr. Lee for his dedication to much applause.

G. Adjournment

The meeting adjourned at 7:50pm.