

# Measure Z Committee

“REGULAR MEETING”

Thursday, September 16, 2010, 6:00 p.m.  
City Council Chambers, City Hall, 3<sup>rd</sup> Floor  
Oakland, California 94612

## 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
Dhar Mann	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, Measure Z Committee Meeting of August 19, 2010
- E. Reports for Discussion and Possible Action:
  1. Discussion: Restructuring of Monthly Meeting Schedule to Every Other Month (Even-Numbered Months Only).
  2. Development of Guidelines, Fees and Overall Regulation of Measure Z Clubs
- F. Announcements.
- G. Adjournment.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2010 SEP 13 PM 3:00

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.

Item C:      Review of Pending List

# Measure Z Committee

## Pending List and Proposed

September 16, 2010, 6:00 p.m.

## Items for Discussion

### Pending, No Specific Date

1. 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*
2. Develop guidelines for future enforcement (D. Gieringer)
3. 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*
4. Monitor, on an ongoing basis, "private, adult" marijuana offense arrests (J. Anthony)
5. A definition of "private" as it relates to cultivation in the law (R. Lee) *rev. Aug 08*
6. Annual Report from the Measure Z Committee to the Oakland City Council (D. Gieringer 7/20/06)
7. Review of Oakland compliance / non-compliance policies with the Drug Enforcement Agency (DEA) (R. Lee/D. Gieringer 9/20/07)
8. 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)
9. Review of environmental impacts of indoor / outdoor growing and possible regulations (M. Hummel 11/19/09)
10. Licensed cannabis smoking premises in the City of Oakland (D. Gieringer 3/19/09)
11. 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 2012

(Rev. September 2010)



# Measure Z Committee

**DRAFT**  
Meeting Minutes

Thursday, August 19, 2010, 6:00 p.m.  
City Council Chambers City Hall, One Frank H. Ogawa Plaza

## 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
Dhar Mann	District 6		

## MINUTES

### A. Roll Call and determination of quorum

*Members Present: J. Anthony, J. Baker, TC Everett, D. Gieringer, W. Herndon, M. Hummel, D. Mann, K. Stephenson, J. Villatoro and Chairperson Lee*

*Members Excused: Member Bonett (Excused Absence)*

*The meeting of August 19, 2009 was called to order at 6:09 p.m.*

### B. Open Forum / Public Comment

There were no speakers on this Item.

### C. Review of the Pending List

Member Gieringer requested a discussion of "Bi-Monthly Meetings."

Chairperson requested a discussion of Guidelines, Fees and Overall Regulation of Measure Z Clubs.

### D. Approval of Draft Minutes

Chairperson Lee pointed out a correction on Page 1, Open Forum, Speaker Eric Keller made reference to the "City Council Meeting" not the "Measure Z Committee" re medicinal dispensary permits. Change noted.

Member Gieringer provided the correct spelling of "Jack Perrious" name, noted in the Minutes as "Jack Ellis." -Change noted.

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There were no public speakers on this Item.

*The Minutes of the June 17, 2010 meeting were approved, by consensus.*

**E. Discussion: Definition of the word “private” as Utilized in the November 2, 2004, Ballot Initiative, Measure Z – “Oakland Cannabis Regulation.”**

Susan Mosk, Office of the City Attorney, provided the report.

While the Initiative process is generally good, there often are problems within the language of the Initiative itself. For instance if an Initiative is placed on the ballot to eliminate all taxes, regardless of the signatures gathered and subsequent votes, the Initiative would be deemed unconstitutional. When the Measure Z Initiative was presented to our office in 2005, we took the posture the Court would take – that is, undertake the legal analysis to ascertain the “plain meaning of the word” in its context in the Initiative. If you look at the actual ordinance, it states

“Measure Z: Shall the ordinance requiring the City of Oakland (1) to make law enforcement related to private adult cannabis (marijuana) use, distribution, sale, cultivation and possession, the City lowest law enforcement priority; (2) to lobby to legalize, tax and regulate cannabis for adult private use, distribution, sale, cultivation and possession; (3) to license, tax and regulate cannabis sales if California law is amended to allow such actions; and (4) to create a committee to oversee the ordinance’s implementation, be adopted?”

What a Court would do is look at the word “private” and how the term is used in the text. “Private adult use” is pretty clear - (it refers to an action by a person over 18 years of age); “Private use, distribution, sale, cultivation and possession” all refer to “conduct.” No where in the Initiative is the word “private” used to modify a “place.” It consistently modifies “conduct,” “use” or “offenses, i.e., “Private cannabis use, distribution, sale, cultivation and possession.” “Private adult “offenses” can and will come to the attention of the police. “Private offenses” must occur someplace that is not public, not open to the public – so we used the example of “in your home.” Our office still stands behind this interpretation – “private” as used in the Initiative refers to “conduct.” Others have argued that the word “private,” as used in the Initiative refers to a “place” – like Costco, a private club with a membership fee or like the “Safeway Club,” or any club that charges the public admission to get in. “Private” as a “place” can only mean a location where you may exclude any members except those you invite. In each of the above examples, any member can pay fees and obtain admittance.

Member Gieringer noted that commas and conjunctions used to modify private use “marijuana” in the Initiative – a thing, i.e., marijuana use, marijuana distribution,

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marijuana sale, marijuana cultivation. Where you have a list of nouns with a preceding adjective as in private use, private distribution and private sales, the adjective applies to each of the nouns, e.g., English men, women and children – English men, English women and English children. That’s the way the language works. There are private places other than a home. One can lease a building or room in a building for “private” use. This alternative, a place outside of one’s home that is “private,” was not considered nor is reflected in the City Attorney’s interpretation.

Member Anthony noted the City Attorney’s comments are merely an invitation for the Measure Z Committee’s to sue. The City Attorney’s Office is not counsel to this Initiative-mandated Committee and it is unclear whether the Committee is bound by the City Attorney’s opinion.

The following persons spoke on this Item:

**Rick Mora:** If you follow the logic in the City Attorney’s opinion, it suggests by use of the term “occurs in a private place, such as an adult’s home.” Use of the term, “such as” implies there are other possibilities of a private place.

**F. Announcements**

Chairperson Lee announced the regular East Bay Activist’s Meeting at the Oaksterdam University Student Union, 1915 Broadway. Pizza and soft drink are served. There was a big Rolling Stone article on Proposition 19 this week. The Teamsters just endorsed the Initiative this week.

**G. Adjournment**

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

\_\_\_\_\_  
Staff to the Measure Z Committee

\_\_\_\_\_  
Date Adopted

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ITEM E-1: Discussion" Restructuring of  
Monthly Meeting Schedule to  
Every Other Month (Even-  
Numbered Months Only)  
(There is no written report on this  
Item.)

ITEM E-2:

Development of Guidelines, Fees  
and Overall Regulation of measure  
Z Clubs

(There is no written report on this  
Item.)