

Measure Z Committee

Regular Meeting

Thursday, September 15th, 2011, 6:00 p.m.

AGENDA

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>

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 from the Measure Z Committee meeting of July 21st, 2011.
- E. Reports for Discussion and Possible Action
 - 1. A continuation of the discussion of the City's Smoking Ordinance and the City's current enforcement procedures.
 - 2. Review and approval of the final draft information bulletin for OPD regarding Measure Z for the implementation of the Measure Z lowest law enforcement priority. (Draft Attached)
 - 3. A discussion regarding Committee Members terms of office, reappointment, and process regarding vacancies.
- 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 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.

Measure Z Committee

Pending List and Proposed

September 15th, 2011, 6:00 p.m.

Items for Discussion

Pending, No Specific Date

1. A review and discussion of revised Measure Z Club regulations and fees.
2. 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*
3. Monitor, on an ongoing basis, "private, adult" marijuana offense arrests. (J. Anthony)
4. Annual Report from the Measure Z Committee to the Oakland City Council (last report, March 2011)
5. Review of Oakland compliance / non-compliance policies with the Drug Enforcement Agency (DEA) (R. Lee/D. Gieringer 9/20/07)
6. 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)
7. Review extent of OPD compliance with federal law regarding cannabis grows.
8. Licensed cannabis smoking premises in the City of Oakland (D. Gieringer 3/19/09)
9. Report from the District Attorney – conviction vs. arrest statistics for CA Health & Safety Code section 11357 – misdemeanor arrests (L. Bonett 5/21/09)
10. Extended discussion regarding "direction" of Measure Z Committee in 2011 and beyond.

For Tracking Purposes

1. Election of Officers – March 2012

(Rev. 07-21-11)

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Measure Z
September 21st, 2011

Measure Z Committee

DRAFT
Meeting Minutes

Thursday, July 21st, 2011, 6:00 p.m.

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		

MINUTES

A. Roll Call and determination of quorum

Members Present: D. Gieringer, R. Lee, J. Anthony, D. Mann, TC Everett, L. Bonett, J. DeVries

Members Excused: K. Stephenson, W. Herndon,

The meeting of July 21st, 2011 was called to order at 6:10 p.m. Chairperson Lee noted there was a quorum.

B. Open Forum / Public Comment

There were no public speakers.

C. Review of Pending List

Member Bonett did not have an item for the list but announced that there was a vacancy in the District 2 seat and encouraged those who may live in that area to contact Councilmember Kernighan's Office. She also noted that in the past the committee itself did some recruitment for members.

D. Approval of Draft Minutes

Joe DeVries noted the speaker's name under open forum was incorrect and he would make the change. James Anthony noted that he was listed as excused absent and present and that Keith Stephenson was not listed. The minutes were approved with corrections.

E-1 A continuation of the discussion of the City's Smoking Ordinance and whether there are conflicting regulations currently in place

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Member Everett stated that she had been doing some research and said that much like the existence of Measure Z clubs, there is no authorized indoor public smoking permitted in the City of Oakland. Chairperson Lee ask about "private" clubs. Member Everett researched based on the clubs the committee had discussed last month. She emphasized again that there is NO authorized public indoor smoking allowed anywhere.

When asked about the state laws, Member Gieringer pointed out that state law only applies to tobacco and makes no mention of cannabis and that cities have the right to impose even tougher standards than the state does regarding smoking. Member Gieringer suggested that the committee propose some language to the council but that the language has not been developed yet.

A discussion ensued regarding the ordinance the council passed the night before and Member Anthony clarified that last night's ordinance continues to ban on-site consumption at licensed Cannabis facilities.

Joe DeVries made a recommendation that if the committee wished to suggest language to the city council that they should look at language from other jurisdictions that has worked. Member Gieringer pointed out that all that is needed is to remove cannabis from the city's current smoking ordinance. Joe DeVries said that if the committee could look at language from other cities that deals with ventilation and any other issues around on-site consumption that such language would have a better chance at being considered than just modifying the city's current ordinance. Member Gieringer said he would bring San Francisco's and Berkeley's language back to the committee next month.

E-2 Review of a draft information bulletin for OPD regarding Measure Z for the implementation of the Measure Z lowest law enforcement priority.

Lt. Mike Poirier provided a brief draft of a training bulletin that utilized the language directly from Measure Z as well as the City Attorney's opinion of the definition of private. He then reviewed the process for getting a policy into place in the department; the draft needs to go to the Office of the Inspector General and the Chief's Office and may incur modifications based on their input. His goal is to take a bulletin back to OPD that the Measure Z Committee has had a chance to review and generally supports.

Chairperson Lee noted he did not agree with the last paragraph in regard to the definition of private excluding cabarets, cafes, etc. Lt. Poirier noted that the language is based on the City Attorney's opinion. Chairperson Lee suggested that the committee try (with the new City Attorney) to get a another ruling on private, especially in regard to a private area of a café or cabaret that requires a membership card for entry. Lt. Poirier noted that the smoking ordinance may override any new definition of private having any impact on allowing smoking in private clubs.

Member Anthony suggested that maybe the city would recognize private clubs as viable in light of the city's dire financial situation and that utilizing vaporization instead of smoking may be an option to consider. Member Everett noted that the prior City Attorney's opinion on private was just one opinion and that other attorney's had different interpretations of private.

Member DeVries noted that the training bulletin outlines what Measure Z does not do but that it doesn't go into enough detail about what it does do. He was concerned that the City Council may feel the bulletin is too limited in detail. His concern was that there was little about protections for individuals who may be growing in their yard and receive a visit from the police and that the conversation was focused too much on clubs. Lt. Poirier noted that it is not in his arena of expertise to interpret the initiative to add more or less to a training bulletin. His purpose with the bulletin is not to fix holes in the initiative but to simply provide guidance on the two issues of private and lowest law enforcement priority.

Member Anthony suggested that if the bulletin is to remain short and simple, in the last sentence of the bulletin regarding clubs, cafes, and cabarets, that the word public be put at the front of the sentence so that it defines public cafes, public cabarets, etc. Lt. Poirier said he could just put the entire legal opinion in the bulletin.

A discussion ensued regarding the legal opinion of the City Attorney and the implementing ordinance of the City Council that supported that legal opinion which has caused much of the debate around implementation. Chairperson Lee asked if there would be support for the committee to ask for a new City Attorney's opinion since there is a new City Attorney. Member DeVries noted that the new City Attorney was the attorney who wrote the original opinion and therefore not likely to change it now. Member Bonett asked if we should present an amendment to the ordinance with a strong number of residents present supporting the amendment. Member Gieringer was interested in moving forward with the language we have since it has taken so long to move the current language forward.

Lt. Poirier noted that getting the policy through OPD can be time consuming and the report is currently scheduled to go before council in September. He would like to have a final product to bring to the Public Safety Committee. Member Bonett would like the message to Council to be that the bulletin is supported both by the Oversight Committee as well as OPD to ensure the bulletin is fully embraced. Lt. Poirier suggested he could add language about the existence of an Oversight Committee. Member DeVries thought that was a good idea, noting that Officers should be aware that there is a committee overseeing how they respond to the low law enforcement policy.

Member Anthony made a motion to accept the report and draft bulletin with discussed changes and additions. Member Gieringer seconded the motion and it was approved by consensus.

E-3 A definition of “private” as it relates to cultivation in the law

This item was not discussed as a separate agenda item since there was so much discussion regarding the definition of private in the previous item.

E-4 A review and discussion of revised Measure Z Club regulations and fees

Chairperson Lee suggested that changing fees that clubs pay to “fines” that they pay, it would mean that effectively if they were to be fined for anytime they violated the regulations, the fine could replace fees and thereby not officially allow such activity but the fine would be a way to collect revenue. Member Bonett thinks we should use “Private Adult Clubs” or “Private Adult Cannabis Club” as opposed to “Measure Z Clubs” in discussion and in print to reflect what these really are.

F. Announcements

Member Bonett announced that half of the committee’s terms are up in July and she is not clear about the process of being reappointed. Chairperson Lee noted that his appointee is retiring and asked if that means he gets retired. Member Anthony noted that he is sitting as the District 4 representative even though that person (Jean Quan) is now the Mayor. Member DeVries suggested this would be a good agenda item for next month.

Chairperson Lee announced there will be a big street festival over Labor Day in the Frank Ogawa Plaza area sponsored by the International Cannabis and Hemp Expo.

Member DeVries announced that National Night Out is coming up and residents are encouraged to host a party. The city has broken a record for the total number of parties in Oakland this year and it’s a great way to make your neighborhood safer.

Member Bonett asked whether we would have a meeting in August. A discussion ensued regarding potential changes to the draft of the bulletin and whether the committee needs to meet before the Public Safety Committee meets in September.

The decision was made to cancel the August meeting and that Member DeVries would ask that the report to the Public Safety Meeting be moved to October thereby giving the committee time to review the Police Department’s final product.

G. Adjournment

There being no further business, and upon the motion duly made, the Measure Z Committee adjourned the meeting at 7:20 p.m.

Staff to the Measure Z Committee

Date Adopted

DRAFT



INFORMATION BULLETIN

OAKLAND POLICE DEPARTMENT

Date: 6 Sep 11

"Information Bulletins shall be used to set forth information, notices, or announcements regarding topics of general interest. Such bulletins shall not constitute official policy. Information Bulletins expire two years from the date of publication unless revised, canceled, or superseded sooner. Members shall retain them until expiration."

MEASURE Z ENFORCEMENT

On 7 Dec 04, Measure Z, a voter initiative entitled Oakland Cannabis Regulation and Revenue Ordinance, became effective. In short, Measure Z states that the City of Oakland shall make law enforcement related to the private adult cannabis (marijuana) use, distribution, sale, cultivation and possession, the City's lowest law enforcement priority. Measure Z established an oversight committee which annually reviews the Departments compliance with the Measure.

Measure Z did not change state or federal law, both of which prohibit non-medical cannabis use. The Oakland Police Department maintains the right to continue law enforcement activities related to private adult cannabis offenses. The lowest law enforcement priority does not apply to possession, distribution or consumption of cannabis on streets or other public places or distribution of cannabis to minors.

Medicinal marijuana is not addressed in Measure Z – the use of medicinal marijuana is outlined in TB III-W, Medical Marijuana.

In 2005, the Office of the City Attorney 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.

Item E2. Sept. 21, 2011