



MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, January 7, 2016
2:00 PM

APPROVED ACTION MINUTES

I. Call to Order – 2:10

A. Roll Call

Commissioners present: Cooper, Ferguson-Riffe, Lampach, Pappas (arrived at 2:15), Rice, Tims.

Absent: Jones (excused) and Rush.

Staff present: Secretary Elizabeth Greene

B. Changes to Order of Agenda

None.

II. Public Comment

Two comments, one suggesting a future agenda item to discuss parity between City use definitions and State medical cannabis permits (ie Manufacturing term meaning the same for state and city purposes), and one encouraging people to attend Planning Commission meetings to show support for expanding cultivation beyond the M District.

III. Approval of November 5, 2015 Draft Action Minutes

Motion/second to approve the minutes (Ferguson-Riffe/Rice).

(Pappas arrived at 2:15)

Chair Pappas asked that the minutes be amended to correctly reflect a statement he made in his Chair Report. The second sentence of Item V. shall be changed as follows: "9th Circuit Court decision will allow a San Francisco Fairfax (Marin County) dispensary in the Marina District to reopen." The author of the motion accepted the change. The motion carried 4-0-2-2. (Ayes: Ferguson-Riffe, Pappas, Rice, Tims. Noes: None. Abstain: Cooper, Lampach. Absent: Jones, Rush.)

IV. Planning Staff Report

Secretary Greene made the following announcements:

- David Lampach has been appointed to the MCC by Councilmember Moore. (Commissioner Lampach introduced himself at this time.)
- There is one excused absence (Jones). There is still one open seat (the Mayor's appointee). People interested in filling those positions should fill out a form with the City Clerk, and can also contact the Mayor's office to express interest.
- With the open seat and the excused absence, the number of appointed members of the MCC is 7. The quorum for action is 4 votes.
- Update on dispensary application process: Two meetings scheduled to review applicants – to be discussed during this meeting. Encouraged everyone to read the applications which are accessible from the MCC page.

- 2016 meeting dates are attached. Because of special meeting in January, MCC will either need to drop a meeting later in the year or ask Council to approve an 11th meeting.
- Might need to hold elections at the February meeting.
- No late items.

V. **Chairperson's Report**

Chair Pappas gave a State of the Commission report. Congratulated Commissioner Lampach on his appointment. Expressed pride in the Commission and the work that was done last year. Read the MCC's purpose statement. Mentioned that the City of San Diego is working on cultivation regulations, and that the 40 Acres RICO filing was denied. Disappointed in general at the lack of participation, involvement, attendance from local medical cannabis dispensaries.

VI. **Subcommittee Reports**

None.

VII. **Discussion and Action Items**

A. Changes to Zoning Ordinance: Discuss outcome of 11-18-15 and 12-16-15 Planning Commission consideration of Zoning Ordinance cultivation changes and expansion of cultivation outside the M District. Possible vote on MCC representative for February 23rd Council meeting and vote on a recommendation to Council regarding the Planning Commission's recommendation.

Staff reviewed the Planning Commission actions: 1) forwarding a recommendation to the Council to change Zoning Ordinance Section 23E.72.040 related to cultivation, including a change that removing limits on the number of cultivation locations in the M District, to be heard at the City Council meeting on February 23rd, and 2) asking for more information regarding possible expanding of cultivation beyond the M District. Chair Pappas and Commissioner Rice also described the meetings and made recommendations to talk with WEBAIC (West Berkeley Association of Industrial Companies) regarding their concerns about cultivation in West Berkeley.

Public Comment: One comment, whether cultivation business allowed in other districts would require variances.

Discussion: Commissioner Rice mentioned that Council member Droste and Arreguin's appointments opposed removing the restriction on the number of cultivation sites. She encouraged supporters to talk with City Council before the February 23rd meeting and attend the February 23rd City Council meeting. She mentioned the information on the cultivation handouts that have been given to the Planning Commission and suggested that the number of employees that can be expected to be employed at cultivation businesses be added. Commissioner Lampach will try to provide employment information from Colorado. Need to convince the Council not to put this off until the November State vote regarding legalization.

Motion/second to appoint Commissioner Rice and Chair Pappas to represent the MCC at the February 23rd Council meeting regarding the Section 23E.72.040 changes (Cooper/Ferguson-Riffe). Motion carried 5-0-1-2. (Ayes: Cooper, Ferguson-Riffe,

Lampach, Pappas, Tims. Noes: None. Abstain: Rice. Absent: Jones, Rush.)

Motion/second supporting the Planning Commission recommendation and appointing Secretary Greene, along with the Chair and Vice Chair, to draft a letter to the Council supporting the Planning Commission's position. (Pappas/Ferguson-Riffe). Motion carried 5-1-0-2. (Ayes: Cooper, Ferguson-Riffe, Pappas, Rice, Tims. Noes: Lampach. Abstain: None. Absent: Jones, Rush.)

B. Dispensary selection process: Discussion of upcoming MCC review of applications for the 4th dispensary.

Staff announced the dates of the two MCC meetings to review and possibly make a recommendation to the Council regarding the dispensary applicants:

Thursday, January 28th, 6:00 PM, North Berkeley Senior Center (special meeting)

Thursday, February 4th, 2:00 PM, 6th floor City Hall (regular meeting time and date)

Staff also reviewed the format that was discussed at the November meeting for the applicant review: Applicant presentations, MCC questions and public comment (January meeting), and public comment and MCC discussion (February meeting). A link to the applications are on the MCC's webpage.

Public Comment: Five comments, regarding the order of the presentations, the type of Council recommendation being considered, whether any applications are in the West Berkeley Plan area, if only Principals would be able to present, and how there ended up being six finalists.

Discussion: Is 10 minutes enough time for each applicant presentation? (General agreement from applicants in the audience that 10 minutes is adequate.) Some discussion followed about the order of the meeting.

Motion/second to adopt both the staff recommended meeting format (with MCC questions held until all applicants have presented), and the three questions recommended by staff for the applicant presentations as well as any other questions that might be suggested by the MCC (Cooper/Tims). Motion withdrawn.

Motion/second to adopt the staff recommended by staff (with MCC questions held until all applicants have presented) (Cooper/Lampach). Motion carried 5-1-0-2. (Ayes: Cooper, Ferguson-Riffe, Lampach, Rice, Tims. Noes: Pappas. Abstain: None. Absent: Jones, Rush.)

MCC discussed additional topics to ask the applicants to include in their presentations, including plans to improve the status quo, plans to give back to the community and plans to help low-income patients.

Motion/second to adopt staffs three topics and to add "What do you plan to do for the community?" Motion carried 5-0-1-0. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: Tims. Absent: Cooper, Rush.)

Commissioner Lampach announced that he will recuse himself from the selection process due to business associations with some of the applicants.

There was general agreement that the order of the presenters will be decided by selecting names out of a hat at the beginning of the January 28th meeting, and that the type of recommendation to send to Council will be decided at the February 4th meeting.

C. Changes to the Berkeley Municipal Code: Discuss chapter numbering and Council hearing status. Discuss and vote on staff recommendations to Council regarding selection process and energy use. Vote on MCC representative for February 23rd, 2016 Council meeting.

Staff explained the changes to the Chapter numbering and staff recommendations for new ordinance language regarding energy use (12.25.080) and recommendation that the cultivation Chapter (12.25) not take effect until the need for a cultivation selection process is determined and/or a selection process is developed.

Public Comment: None.

Motion/second to adopt staff recommended language regarding energy use (Cooper/Pappas). Motion carried 6-0-0-2. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice, Tims. Noes: None. Abstain: None. Absent: Jones, Rush.)

Continued discussion of language regarding a selection process was continued into discussion of Item D. Concerns expressed about the possibility of one or two entities controlling all possible cultivation sites and removing opportunities for small businesses to establish in Berkeley.

(Tims left at 4:20).

D. Cultivation selection process: Discuss whether a selection process is necessary.

Public Comment: Five public comments, regarding language to use when describing expansion of cultivation sites, the need to verify a commitment to affordable, medical cannabis, possibility of one person controlling all possible sites, recommendation to use the same selection process as for dispensaries, and reference to Oakland's proposed cultivation process.

Discussion: General agreement that a selection process is important, to verify "who" and "how" businesses are run. Questions were raised about the crimes that could prohibit participation in a cultivation business. Some discussion about having no selection process for small businesses. Specifics should be discussed at the March meeting.

Motion/second to recommend to Council that Chapter 12.25 not become effective until a selection process is determined (Cooper/Rice). Motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

X. Adjournment

Motion to adjourn at 4:45.

No late items were distributed at the meeting.

Commissioners in attendance: 6

Members of the public in attendance: Approximately 26

Public speakers: 13

Length of meeting: 2 hours, 35 minutes

APPROVED: 
Elizabeth Greene
Medical Cannabis Commission Secretary