



AD HOC SUBCOMMITTEE ON MARIJUANA Meeting Minutes

Date/Time: Tuesday, February 9, 2017 at 1:11pm

Where: Milpitas City Hall, 4th Floor Conference Room
(transferred from Committee Conference Room, 1st Floor)

Attendees: Councilmembers Phan and Nuñez; City Manager Tom Williams, City Attorney Chris Diaz, and Recording Secretary Rachelle Currie

- I. **Call to Order.** Councilmember Phan called the meeting to order at 1:11pm.
- II. **Approval of Agenda.** Councilmember Nuñez motioned, seconded by Councilmember Phan, to approve the agenda.
- III. **Public Forum.** None.
- IV. **Items for Discussion**
 - a) **Review of Proposition 64 & b) Discuss Regulations and Options for a Potential Marijuana Ordinance.** City Attorney Christopher J. Diaz started his powerpoint presentation with the information that Proposition 64 was passed by 56% voters and that this proposition is to legalize recreational use of marijuana by adults in the State of California.

Proposition 64 allows personal use by those 21 years of age or older. Personal use is treated like alcohol and/or tobacco use therefore we can't say that they are not allowed to grow/cultivate marijuana in their homes. However, there's a provision of up to 6 plants for personal use **per household** inside a private residence or accessory structure, and possession of any marijuana produced by those plants. This proposition also allows possession of up to 28.5 grams of cannabis plant material or 8 grams of concentrate. Mr. Diaz added that the State of California will start excising tax at 15% on medical and recreational marijuana after they issue licenses.

Proposition 64 allows local governments to ban: a) recreational retailers; b) medical dispensaries; c) any delivery service originating from or terminating in jurisdiction; d) outdoor cultivation; and e) any other state-licensed marijuana business licensed under Division 10 of the B&P Code. The City cannot ban personal use (such as smoking in private home) and indoor cultivation, but multiple regulatory options exist. Regulatory options such as banning use of marijuana in all other contexts, including use in public spaces, on-site use at dispensaries or retailers, or use in any public retailers within 1,000 feet of school, park, or other public gathering space. The City Attorney continued his presentation enumerating various possible regulations that the City can explore or consider.

Mr. Diaz briefly talked about taxation and revenue the City could discuss such as conditional use permit conditions and business license fee. If a commercial use is allowed, it can be taxed using sales tax, cultivation tax, and square footage tax. He added that any tax imposed must be passed by the voters, per Proposition 218. A special tax must be passed by a 66% vote; a general tax by a 50% vote and the earliest opportunity to place a measure on the ballot to tax marijuana is November 2018. The City Attorney ended his presentation by providing examples of tax measures on marijuana from different cities.

Questions & answers and suggestions ensued between Councilmembers Phan and Nuñez, City Manager Williams, and 3 public in attendance (Debbie Indihar-Giordano, Victor Gomez, and Sean Kali-rai). Questions such as, if the %15 excise tax is already in place or will the City be getting a portion of this tax (City Attorney doesn't think so since it's all new and there might be some funding from State to roll in); more examples of tax measures with cities in the Bay Area and how many have move forward; other cities that have urgency ordinances in effect; and future site visits in San Jose with Police Chief Eddie Garcia.
- V. **Other Business.** None
- VI. **Next Meeting** – was scheduled to Monday, February 27, 2017 at 6:00pm
- VII. **Adjournment.** Councilmember Nuñez motioned, and seconded by Councilmember Phan to adjourn the meeting at 2:06 pm.