



**CITY OF OAKDALE
CITY COUNCIL
SPECIAL MEETING MINUTES**

Gene Bianchi Community Center
110 South Second Avenue
Oakdale, California

Monday, April 27, 2017

6:00 PM

Large Conference Room

1. CALL TO ORDER:

Mayor Paul called the meeting to order at 6:00 p.m.

2. CITY COUNCIL MEMBERS PRESENT/ABSENT:

Present: Mayor Paul
Mayor Pro Tem Dunlop
Council Member Bairos
Council Member McCarty

Excused: Council Member Murdoch

Staff Present: City Manager Whitemyer
Deputy City Attorney White
Legislative Advocate Young
Finance Director Avila
Interim Public Services Manager Black
Police Sergeant Carrillo
Public Services Director Gravel
City Clerk Teixeira

3. PLEDGE OF ALLEGIANCE:

Mayor Paul led the Pledge of Allegiance.

4. ADDITIONS/DELETIONS:

No items were added or deleted

5. PUBLIC COMMENTS:

Pursuant to California Government Code Section 54954.3(a), members of the public wishing to address the Council may do so, and such comments shall be limited to the Special Meeting topic(s).

6. REGULATION OF THE MEDICAL AND RECREATIONAL MARIJUANA ACT POST PROPOSITION 64:

City Manager Whitemyer presented the staff report advising this is the first opportunity for individuals to provide public comment. City Manager Whitemyer introduced Josiah Young a Legislative Advocate with the City Attorney's office.

A PowerPoint Presentation was provided. (Exhibit A PowerPoint Presentation attached and incorporated hereto as part of these minutes).

Josiah Young a legislative advocate and Attorney (New York State Bar) presented and reviewed a comprehensive PowerPoint Presentation providing a thorough review current and historical medical and recreational marijuana laws.



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Thursday, April 27, 2017

Next City Council Resolution: 2017-047

Next Ordinance: 1248

Public Comment:

Charles Shetron submitted public comment verbally and in written format (Exhibit B attached and incorporated herein as part of the minutes).

Zac Gravon

Neil Pull

Karen O'Bannon

Kathleen Westenberg

Kevin Fox spoke

Alice Garcia

Raymond Sharp

Rouze Roberts

The audience participated in a survey provided by Josiah Young.

At the conclusion of the exercise, City Manager Whitemyer stating implementation of Prop 65 is a complex issue with many different opinions and considerations. He thanked those in attendance for attending and providing their input. City staff will prepare a staff report and bring it forward for City Council to take a formal action in the future.

The City Council thanked the members of the audience for their attendance and participation.

6. ADJOURNMENT:

There being no further business, Mayor Paul adjourned the meeting at 8:05 p.m.

ATTEST:

APPROVED:

Kathy Teixeira, CMC
City Clerk

Pat Paul
Mayor

Churchwell **White** ^{LLP}

Marijuana Regulation Workshop

City of Oakdale

April 27, 2017

Presented by: Josiah Young

Churchwell **White** LLP

Presentation Format

- Marijuana Regulation
 - Federal Level
 - State: MCRSA and AUMA
 - License types
- Local Marijuana Regulation
- Potential City Benefits/Problems
- Department Concerns
- Public Comment
- Council Discussion and Direction

Federal Marijuana Regulation

Marijuana is Illegal Under Federal Law

- Marijuana is an illegal Schedule I narcotic
- The banking industry is subject to overlapping federal and state regulations
- Illegal business expenses cannot be deducted from Federal Income Tax liability
- President Trump Federal Administration
 - AG Sessions - "I reject the idea that America will be a better place if marijuana is sold in every corner store.
 - AG Sessions - "I think one of [Obama's] great failures, it's obvious to me, is his lax treatment in comments on marijuana..."
 - Sean Spicer - "You will see more enforcement."
 - AG Sessions also said he doesn't think the Feds have the resources to prosecute marijuana business crimes in states that legalize it.

Federal Power to Regulate Marijuana Related Activity in California

- Criminally prosecute marijuana related business owners and operators
- Criminally prosecute personal possessors and users
- Criminally prosecute bankers, lawyers, City Officials administering MJ business*
- Withhold funding for state programs
 - Permissive, not specifically because of marijuana activity

*Cannot Seize State Tax Revenues From Marijuana Businesses

State Marijuana Regulation

Defined Terms

- Cultivation: Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis
- Dispensary: Facility where cannabis, products, or devices are sold
 - Deliveries: Commercial transfer of cannabis or products from a dispensary to a primary caregiver or qualified patient

Defined Terms

- Manufacture: Preparation of edibles, byproducts, and concentrates
- Transportation: The transfer of cannabis products from one licensee to another
- Distribution: Procurement, sale, and transport of cannabis
- Testing: Analysis of marijuana products for cannabinoids, terpenes, solvents and chemicals, foreign material, and microbiological impurities

Medical Marijuana Under California Law

- Compassionate Use Act – Proposition 215, November 6, 1996
- Medical Marijuana Program – SB 420, effective January 1, 2004
- Medical Cannabis Regulation and Safety Act (MCRSA)- AB 266, AB 243, SB 643, effective January 1 2016
 - Personal Cultivation - Allows 100 square feet of growing space per patient, with collective gardens of up to 5 patients
 - Commercial Activity - Establishes dual licensing structure requiring state license and a local license or permit for marijuana related business

2016 Ballot Initiative - Recreational Marijuana - Adult Use of Marijuana Act (AUMA)

- Personal Use - Legalizes possession of up to one ounce of marijuana under state law, by adults 21 or older;
- Personal Cultivation Legalizes cultivation of up to six (6) plants, indoors, for personal use; Subject to "Reasonable Regulation"
- Permits adults 21 and over to purchase marijuana at state-licensed businesses or through their delivery services; and
- Imposes a state excise tax of 15 percent on retail sales of marijuana, and state cultivation taxes of marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves.

Bureau of Marijuana Control

- Bureau of Marijuana Control is given chief authority to regulate the entire industry in California and issue commercial business licenses starting in 2018.
- AUMA's regulatory provisions are largely patterned on MCRSA
- Business licenses for medical and adult-use are distinct meaning both systems still exist
 - Creates nuanced inconsistencies
 - The Legislature and Agency is moving to consolidate these two systems
- All medical cannabis and medical cannabis products will be tracked through the product's life cycle, from the original plant to the final retail site.

License Breakdown

- The state licensing authorities are currently drafting regulations for state licenses
- MCRSA creates 17 license types for commercial marijuana businesses from six (6) categories: **Cultivation, Manufacturing, Transportation, Distribution, Dispensary, & Testing**
- AUMA Creates 19 license types for commercial marijuana businesses, in parallel to MCRSA
 - Allows for vertical integration
 - Microbusinesses
 - Large Cultivators

License Type Chart - MCRSA

License	Purpose	Explanation
Type 1	Cultivation; Specialty outdoor; Small	Cultivate outdoor only, up to 5,000 sq. ft., or up to 50 mature plants on noncontiguous plots. (Bus. & Prof. Code, § 19332 for all cultivation licenses.)
Type 1A	Cultivation; Specialty indoor; Small	Cultivate indoor using only artificial light. Up to 5,000 sq. ft.
Type 1B	Cultivation; Specialty mixed-light; Small	Combination of natural light & supplemental artificial light. Up to 5,000 sq. ft.
Type 2	Cultivation; Outdoor; Small	Cultivate outdoor. 5,001-10,000 sq. ft.
Type 2A	Cultivation; Indoor; Small	Cultivate indoor, only artificial light. 5,001-10,000 sq. ft.
Type 2B	Cultivation; Mixed-light; Small	Combination of natural light & supplemental artificial light. 5,001-10,000 sq. ft.

License Type Chart - MCRSA

License	Purpose	Explanation
Type 3	Cultivation; Outdoor; Medium	Cultivate outdoor. 10,000 sq. ft. to one acre.
Type 3A	Cultivation; Indoor; Medium	Cultivate indoor, only artificial light. 10,000 sq. ft. to one acre.
Type 3B	Cultivation; Mixed- light; Medium	Combination of natural light & supplemental artificial light. 10,000 sq. ft. to one acre.
Type 4	Cultivation; Nursery	Up to one acre, no indoor/outdoor requirement. Nurseries can only cultivate “clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.”

License Type Chart - MCRSA

License	Purpose	Explanation
Type 6	Manufacturer 1	Produce medical cannabis using non-volatile solvent. (Bus. & Prof. Code, § 19341.)
Type 7	Manufacturer 2	Produce medical cannabis using volatile solvents. (Bus. & Prof. Code, § 19341.)
Type 8	Testing laboratory	Testing only. Cannot hold any other type of license or have an ownership interest in any other licensee's entity. (Bus. & Prof. Code, § 19342.)
Type 10	Dispensary General	Single, standalone retail dispensaries. (Bus. & Prof. Code, § 19334.)
Type 10A	Producing Dispensary	Dispensary that holds up to 3 other licenses. (cannot hold type 8 or type 11) (Bus. & Prof. Code, § 19334.)
Type 11	Distributor	Distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. Must hold type 12, but cannot hold any other license.
Type 12	Transporter	Can transport marijuana between licensees. (Bus. & Prof. Code, § 19337.)

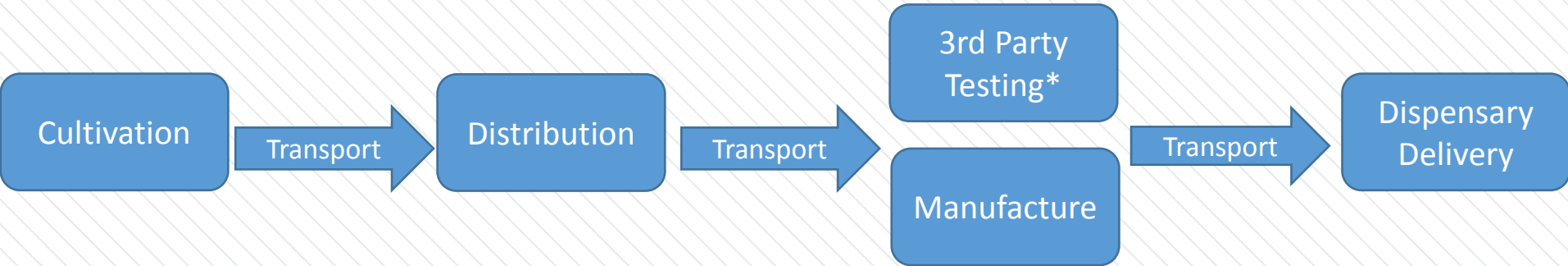
License Type Chart – AUMA Specific

License	Purpose	Explanation
Type 5	Cultivation; Outdoor; Large	No artificial lighting. Greater than one acre of total canopy size on one premises.
Type 5A	Cultivation; Indoor; Large	Cultivation using exclusively artificial lighting greater than 22,000 square feet of total canopy size on one premises.
Type 5B	Cultivation; Mixed-light; Large	Cultivation using a combination of natural and supplemental artificial lighting greater than 22,000 square feet of total canopy size on one premises. No type 5 license issued before 1/1/2023.

License Type Chart – AUMA Specific

License	Purpose	Explanation
Type 6	Manufacturer 1	Produce cannabis using non-volatile or no solvents. (Bus. & Prof. Code, § 26100.)
Type 7	Manufacturer 2	Produce cannabis using volatile solvents. (Bus. & Prof. Code, § 26100.)
Type 10	Retailer	Retail sale and delivery of marijuana or marijuana products to customers. (Bus. & Prof. Code, § 26070.)
Type 11	Distributor	Distribution of marijuana and marijuana products. (Bus. & Prof. Code, § 26070.)
Type 12	Microbusiness	Cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer. (Bus. & Prof. Code, § 26070.)

License Category Interaction



What's Next?

- State
 - 2018 Regulations and Licensing
 - Clarifying changes to the laws will be made legislatively and in likely court

Local Marijuana Regulation

Local Control Chart

	Medical – MCRSA	Recreational – AUMA
Personal Cultivation	Do Nothing, Ban or Regulate	Do nothing, Ban Outdoors, Reasonably Regulate – Not Ban Indoors
Commercial Business: manufacture, dispensary, cultivation, testing, distribution. transport*	Do nothing, Ban or Regulate/Tax	Do nothing Ban or Regulate/Tax

If a city bans commercial cultivation, or personal outdoor cultivation, or retail sales of marijuana or marijuana products, it is ineligible to receive state grant monies funded through the new state excise taxes that take effect on January 1, 2018. (Revenue and Taxation Code § 34019(e)(3)(D).)

Marijuana Taxation Summary

Applies to Non-Medical

Sales and Use Tax

7.25 % +
Retail
Price

Applies to Medical and Non-Medical

State Excise Tax

15 % Gross Receipts
of Retail Sales

Local Excise Tax

XX % Gross Receipts

State Cultivation Taxes

\$9.25/ OZ – Flower
\$2.75/OZ – Leaves

Local Regulatory Fees*

To Cover Admin Cost

City of Oakdale Laws

- Ordinance 1241-16 passed 2-18-16
 - Amends Ch. 14, Health and Sanitation; Article IV, Medical Marijuana Dispensary, Cultivation and Delivery Ban

Other Relevant Jurisdiction Laws

- City of Newman
 - Ban Commercial Activity; Regulate Personal Indoor Cultivation
- City of Turlock
 - Ban Commercial Activity; Not Regulating Personal Indoor Cultivation
- City of Ceres
 - Developing Ordinance Permitting Commercial Cultivation, Manufacture and Testing
- Stanislaus County
 - Bans All Commercial Marijuana Activity

What's Next?

- Local level
 - Policy decision: regulate recreational or medical, or both?
 - Update of Oakdale Municipal Code
 - Regulations
 - Permit structure
 - Zoning

Potential City Benefits/Problems

Potential Cultivation Benefits

- City permitting authority
 - Limit number of grows, locations, restrictions*
 - Inspections
- Can manage land use of legal operations rather than illegal activity
- Tax revenue for the City on commercial operations

- *172 inquiries for state cultivation permits in Stanislaus County.

Potential Cultivation Problems

- Increased marijuana in City
 - Odors
 - Water issues from fertilizers
 - Increased crime
- No clear testing of potency or consistency of product required until further in supply chain
- Increased Fire/Emergency Risk

Potential Dispensary Benefits

- Ease of access to medical supply for patients who can't grow or easily travel
- Tax revenue goes directly to the City
- Can manage land use of legal operations rather than illegal activity
 - Limit locations and zoning, radius limits
- City permitting authority
 - Limit numbers, require background checks of workers

- **CASE STUDY – Fort Collins, CO (Population 144K)**
- Has seen \$1M in marijuana revenues make it to school district programming

Potential Dispensary Problems

- Increased marijuana transported through City
- Increased crime and danger to dispensary employees and customers/patients
- Increased traffic accidents/911 Calls

- **CASE STUDY – Lafayette, CO (Population 24K)**
- Has two dispensaries with extended hours of operations
- Chief of police voiced little concern about the about the extension having any impact on crime rates.

Department Concerns

Emergency/Fire Department Concerns

- Cultivation and manufacture dangers
 - Traps
 - Electrical hazards
 - Unsafe building modifications
 - Chemical hazards
 - CO2 enrichment systems
- Confusion about Legality of operation
 - May require Police or Planning Dept. verification of legality and proper permits

Police Department Concerns

- Dispensaries
 - Targets for robbery because they have large quantities of cash and marijuana
 - Security systems, secure customer safety, and employee background checks
 - Black market activities despite legalization
- Deliveries
 - Risks to persons delivering and to recipient, cars are targets
 - Increased danger to patients and neighbors if homes are identified
- Trespassing on cultivation sites
- **CASE STUDY – Greenwood Village, CO (Population 15K)**
 - Laws hard and expensive to enforce.
 - Unfunded Mandate

Planning Department Concerns

- Zoning Restrictions
 - Zones appropriate for each use (ex: general commercial, industrial)
 - Consideration of sensitive uses (schools, care facilities, churches, parks)
 - Procedures required to allow marijuana in each zone
- Permitting Issues
 - New systems requiring administration and enforcement
- CEQA analysis
 - Not clear whether an ordinance is a project
 - Can cities rely on programmatic EIR of state agencies?

Public Comment

Council Discussion and Direction

Thank you

Churchwell **White** LLP

TO: City Council of Oakdale, California

FROM: Charles R. Shetron, Resident

SUBJECT: Marijuana

This new marijuana law has unnecessarily created an expensive cumbersome regulatory mess that, in my opinion, will descend into chaos.

Let us review; we have four distinct operations, and three transportation requirements, all with their own set of regulations, and each with manpower requirements to enforce those regulations. Disregarding the time, energy and number of people just to write the regulations; we have a situation where each of the seven functions will require what could be a substantial cost to the operator. The complexity of the function will determine the regulatory cost for each one, but in every case there will be at minimum, a requirement for staff, and the cost of reporting to the State. This will generate substantial raw cost to the operator. Added to the raw costs will be the overhead and profit of each regulatory agency. I don't know, but I would not be surprised, if the cumulative cost of regulations to the end purchaser of the product would be fifty percent or more.

Economic principles will not be suspended because we are dealing with marijuana. Therefore, sales of this product, like all others, will respond to price. In each of the foregoing seven operations there will be an increased cost to the operator due to regulation, and of course the most substantial cost increase will be to the end purchaser. In each phase of the process there would be a bottom line incentive to obtain the product for less cost. The incentive will be most intense for the end purchaser. I believe that this law as written and the regulatory quagmire it will create will end up producing a vast new market for illegal operators. But that is beside the point.

The real question is what is the City to do with the mess they have been handed. Regardless of how much or how little the City is involved in this process, there will be increased pressure on our law enforcement with the subsequent increased cost to the City. Therefore, I would like to suggest to the City Council an approach that would allow for some additional state revenue, if and when it takes place, to help offset increased law enforcement cost, and a minimum of regulatory involvement by the City in order to save the cost of creating regulations and the additional staff to enforce them.

I propose that the City authorize only two retail marijuana dispensaries, one East of Yosemite Ave. and one West of Yosemite Ave. which will satisfy the State, and then refuse to authorize any other marijuana operation within the City, which will minimize regulatory and enforcement costs to the City.