



TOWN OF PARADISE

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931

TELEPHONE (530) 872-6291 FAX (530) 877-5059

www.townofparadise.com

P L A N N I N G C O M M I S S I O N M I N U T E S

December 21, 2015

6:00 PM

The Special Meeting of the Paradise Planning commission was called to order at 6:02 p.m. by Chairman James Clarkson who led the pledge of allegiance to the flag of the United States of America.

COMMISSIONERS PRESENT: Raymond Groom, Stephanie Neumann, Martin Nichols, Anita Towslee and James Clarkson, Chairman. No commissioners absent.

STAFF PRESENT: Community Development Director Craig Baker, Town Clerk Joanna Gutierrez, Town Attorney Dwight Moore and Police Lieutenant Steve Rowe.

1. APPROVAL OF MINUTES

- 1a. **MOTION by Nichols, seconded by Neumann**, approved the Regular Meeting Minutes of November 17, 2015. Roll call vote was unanimous.

2. COMMUNICATION

Director Baker informed the Commissioners that the Town Council elected Jody Jones to serve as Mayor for a one-year term and Scott Lotter to serve as Vice Mayor for a one-year term.

3. PUBLIC HEARING PROCEDURE

Director Baker informed the public of the adopted public hearing procedure listed below and that comments are limited to a maximum of five minutes duration.

- | | |
|-----------------------------------|--------------------------------|
| A. Staff comments | C. Close hearing to the public |
| B. Open the hearing to the public | D. Commission discussion |
| 1. Project applicant | E. Motion |
| 2. Parties for the project | F. Vote |
| 3. Parties against the project | |
| 4. Rebuttals | |

4. PUBLIC HEARING

4a. Planning Commission consideration to adopt a resolution recommending that the Town Council adopt a proposed ordinance relating to prohibition of all medical marijuana cultivation, delivery and distribution within the Town of Paradise. The proposed ordinance would provide, among other things, that qualified patients or primary caregivers would be prohibited from cultivating medical marijuana within all Town zoning districts,

PLANNING COMMISSION MINUTES

December 21, 2015 Page 2

medical marijuana cooperative/collectives and dispensaries would not be permitted within any Town zoning district, and the prohibition would include any cultivation, distribution or processing of medical marijuana. In addition, the delivery of medical marijuana would be prohibited within the Town limits.

Director Baker informed the Commissioners that the purpose of tonight's special meeting was to consider adoption of Planning Commission Resolution No. 15-3 recommending that the Town Council consider an ordinance that would prohibit all medical marijuana cultivation, delivery and distribution within the Town as well as continue to prohibit collectives and dispensaries. Mr. Baker stated that since the adoption of the Town's medical marijuana regulations in 2011, there have been numerous court of appeal cases that have resulted in rulings that provide cities with authority to ban cultivation of medical marijuana under a land use ordinance.

Mr. Baker introduced Town Attorney Dwight Moore who explained that this matter is presented in light of recent State legislation, three new regulations known as the Medical Marijuana Regulation and Safety Act (MMRSA), that were enacted primarily to establish statewide laws regarding the licensing of persons who are in the business of providing medical marijuana. The current Town ordinance that was established in 2011 already prohibits medical marijuana dispensaries in all of the Town's zoning districts. Mr. Moore explained that one of the new State provisions requires that the Town take action to prohibit the delivery of medical marijuana, and Town staff believes it is prudent to amend the Paradise Municipal Code to expressly prohibit the delivery of medical marijuana in all Town zoning districts. Mr. Moore discussed recent case law that affirms a city's right to use its zoning authority to ban medical marijuana cultivation, notwithstanding current legislation that provides protection from criminal prosecution for possession and cultivation of marijuana to qualified patients and their primary caregivers. Mr. Moore stated that there are no criminal penalties associated with the proposed ordinance and that an administrative citation would be given to any person in violation.

Commissioner Nichols confirmed that the ordinance would not preclude a qualified patient or a primary care giver from possessing or using medical marijuana in the town and that the delivery provisions do not clearly distinguish between commercial or non-commercial delivery.

Chairman Clarkson stated that he believes that the effect of the proposed legislation over existing legislation would be the removal of the cultivation clause.

Chairman Clarkson opened the public hearing at 6:21 p.m.

1. Steve Ballentine is against the proposed ordinance as he is in chronic pain, has given up use of pharmaceutical drugs, relies on medical marijuana that he grows for himself, that he follows the current laws regarding cultivation and does not think this choice should be taken away.
2. Jill Clarkson, cancer survivor, is against the proposed ordinance, relies on medical marijuana for medication, and does not believe it is lawful for the town to ban cultivation of medical marijuana.
3. Dr. Franz, cancer survivor, is against the proposed ordinance, believes the town would be setting itself up for tort claims in regulating a substance that people have a right to use, and that she thinks growing a couple of pot plants does not cause harm to anyone.
4. Kristina G is against the proposed ordinance as she believes she has the right to have the cultivating ordinance on her side.
5. Ron Hawkins is in favor of the ordinance as he believes that his neighbor's marijuana growing has drawn a criminal element to his neighborhood resulting in cars and mailboxes being broken into.

PLANNING COMMISSION MINUTES

December 21, 2015 Page 3

6. Dan Henry of Coldwell Banker is in favor of the ordinance as potential home buyers become concerned about the criminal element in a neighborhood if they view marijuana plants in a neighboring residence.
7. Tyler Johnson is in favor of the ordinance.
8. Fernando Marin is against the ordinance as he believes the benefits of marijuana use outweigh the bad, is against a complaint driven ordinance, is in favor of people being able to use medical marijuana and that this is a quality of life issue.
9. Marvin Debruner is against the ordinance, suffers from Lyme disease, uses and grows medical marijuana, the ordinance would take away his ability to grow his own medicine and alternative medication would cost him \$200 a week and that he believes the smell has been cultivated out of the plant.
10. John Miller-George is against the ordinance, that when he lived in Lake County there was an expensive mess related to marijuana regulations, that he grows medical marijuana and would like to know if the town intends to bust down his door if he continues to grow regardless of regulations.
11. Rahasya is against the ordinance, believes that no one is going to obey the law, believes there is a mental disconnect to even consider this ordinance, and that there is no legal or moral right for the Planning Commission to do this.
12. Priscilla Rawlings is in favor of the ordinance as in her work as a realtor, she has seen that marijuana growing has a negative effect on property values and the community.
13. Jon Remalia is against the ordinance, that he needs morphine just to be able to walk and medical marijuana is a “tool in his toolbox” for treatment, and that the March 1st deadline relating to city regulation was an error that is in the process of being amended.
14. James Riotto is in favor of the ordinance as the smells from his neighbor’s marijuana grow which he believes amounts to 36 plants infringes on his right to use and enjoy his property.
15. Tom Wahl is against the ordinance that it would be taking away from his property rights, that the Compassionate Care Act is very simple, and that delivery of medical marijuana is the least obtrusive way to have medical marijuana made available for patients.
16. Tammy Walton is against the ordinance as without medical marijuana she can only use pharmaceuticals or homeopathic drugs, that medical marijuana is the only thing that helps her to be a good member of society, that she cares about her neighbors and is a good neighbor, and that she believes safe access to medical marijuana is her right and that she will be in jeopardy if this ordinance passes.
17. John Doe is against the ordinance, that there is a state initiative in progress that he believes will negate any town legislation regulating medical marijuana, thinks regulation should be done on a case-by-case basis, that a medical marijuana patient cannot be denied the right to grow and asked that this matter be put on the back burner until January 2017.

PLANNING COMMISSION MINUTES

December 21, 2015 Page 4

18. Leann is against the ordinance, has a medical marijuana delivery service that is discreet, delivers to people who cannot leave their homes, and that many people need medical marijuana to survive.
19. Jay Cooke is against the ordinance, is a real estate agent, believes the League of California Cities is pushing cities to take action, referred to the letter from Jim Wood clarifying that the March deadline is in error, asked if all deliveries are banned would it restrict delivery to Magalia, that this ordinance would drive medical marijuana use underground, that he thinks the town should adopt a wait and see attitude and form a citizen committee.
20. Sarah Bates is against the ordinance, has medical conditions and is homebound, questioned the timing of the meeting which is being held after paratransit hours, that she waited tonight for a taxi service that did not come, if delivery of medical marijuana is not an option she will have to go out of county for medication which would be very difficult under her circumstances, that she would be spending \$20,000 to \$30,000 a month on pharmaceuticals, and that she is responding better to medical marijuana than to other pharmaceutical medication.
21. Ethan is against the ordinance, does not understand how more regulation will solve the problem, and questioned the criminal element.
22. Tom Wahl re-stated his opposition to the ordinance as he thinks this the regulations would be over-reaching.
23. Ron Jones is in favor of the ordinance, is a 16-year resident of Paradise and has talked to many members of the public who support the ordinance and believes the public at large will be in favor of the regulations.
24. John Doe II is against the ordinance, that if the smell of marijuana is the issue there are many other smells that are equally offensive such as rice burning, that the ultimate cost of defending against future legal action by medical marijuana patients should be used for other programs, that the State allows six plants and that alcohol is much worse than marijuana.
25. Louise is against the ordinance, loves the Town, just became a real estate agent, has Prop 215 friends and is concerned about where they will go if the ordinance is adopted, thinks the town will lose business in real estate if the ordinance is adopted, and has four families who like to live here who will not be able to live here if the regulations are approved.
26. Unidentified male is against the ordinance, thinks that something can be done to eliminate the smell, that marijuana will always be around and that we need to learn to work together.
27. Marianna Love is against the ordinance, thinks medical marijuana is good.
28. Kelly is against the ordinance, believes the benefits of marijuana outweigh the problems, that people who are in pain are getting better from this smelly drug and asked that this matter be looking into further before taking action.
29. Kendra is against the ordinance, asked for the Planning Commissioners to consider the benefits of medical marijuana, to do the research and weigh the pros and cons of the matter.

PLANNING COMMISSION MINUTES

December 21, 2015 Page 5

30. Fred Hofer is against the ordinance, lives by the Canteena and sees many violations due to alcohol use, is a cancer patient who cannot take Norco, the smell of marijuana only lasts for about two weeks, and that there are already laws that address the number plants that can be grown.
31. Sarah Mello is against the ordinance believes the Town is shutting the door to Paradise, wants to move out because of the Skyway project, and that the community has lack of perspective.
32. Brant moved to California because of the law that allows him to grow medical marijuana, that he grows two plants, is very disheartened by the proposal, and doesn't want to pay someone else for an inferior product that he can grow discreetly under current law.

Commissioner Nichols stated that he would like to hear from the police department on issues related to marijuana grows. Police Lieutenant Rowe informed that the current ordinance is primarily enforced by Development Services' Code Enforcement Officer, that current law was intended to help patients, that marijuana grows were not evident when marijuana was illegal and that he believes there needs to be more control and the cultivation does bring in a criminal element to the community, that enacting this ordinance would provide for better enforcement as the current is more difficult to enforce than the proposed ordinance will be.

Community Development Director Baker stated that enforcement of the current ordinance is complaint driven relating to marijuana grows and that there is not criminal penalty as medical marijuana cultivation and use was de-criminalized by Proposition 215.

33. John Miller-George related his experience in Lake County, asked if the current ordinance cannot be enforced, why are delivery services proposed to be banned, and that he believes this ordinance would be forcing people break the law and would take away medicine from people.

Commissioner Clarkson stated that he understands the value of medical marijuana and related his experience with stage four liver cancer and his use of medical marijuana to stimulate his appetite during treatment, and that he discontinued its use after he became healthy. He asked the people to be patient with the process, that what comes from this meeting tonight has nothing to do with criminalization of medical marijuana use, and that there would be opportunity to address this issue with the Town Council if the resolution is adopted by the Planning Commission.

34. John Doe I restated his opposition to the ordinance, that he thinks it will force people out of Town which is not the answer, and he would like the Planning Commission to consider how many people are at the meeting, pro and con, and that people need medical marijuana.
35. Marvin restated his opposition to the ordinance, that he thinks it will create an underground market, that he would like to be able to grow his own medication, and that the ordinance will force patients to turn to the illegal market and to illegal deliveries.

Chairman Clarkson closed the public hearing at 8:00 p.m. and called for a five-minute recess. Chairman Clarkson reconvened the meeting at 8:10 p.m.

Chairman Clarkson stated that he is grateful for the active community that came out for tonight's meeting.

Commissioner Nichols stated that this issue is not about whether or not medical marijuana is good or bad, but is a land use matter that local jurisdictions can legally control through zoning regulations.

MOTION by Nichols, seconded by Neumann, adopted Planning Commission Resolution No. 15-3, A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Chapter 17.31 of the Paradise Municipal Code Relative to Prohibiting Medical Marijuana Cultivation and Delivery. Ayes of Neumann, Nichols and Groom; noes of Clarkson and Towslee.

5. ADJOURNMENT

Chairman Clarkson adjourned the special meeting at 8:25 p.m.

Date approved:

By: _____
James Clarkson, Chair

Joanna Gutierrez, CMC, Town Clerk