

FROM THE PLANNING COMMISSION MINUTES OF AUGUST 22, 2013

9. ORDINANCE (Public Hearing)

a. OR13-0001/Medical Marijuana Distribution Facility initiated by EL DORADO COUNTY. The proposed amendment to County Ordinance, Title 17, will prohibit medical marijuana distribution facilities, including dispensaries, collectives and cooperatives in all zone districts in the unincorporated areas of the County of El Dorado. The Planning Commission proposes to find that adoption of the ordinance is not subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060 (c)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations). *[Project Planner: Peter Maurer]*

Peter Maurer presented the item to the Commission with a recommendation of approval to the Board of Supervisors. He referenced edits to pages 2 and 3 as shown on the handout provided to the Commission and audience.

Chair Pratt announced that he had done a site visit to two of the collectives and had been impressed and felt that there were multiple levels of opportunity. Chair Pratt requested clear direction from staff as to what their options were due to the timing issue if they chose to not recommend prohibition.

Kavai Floyd, All Natural, referenced the packet of materials they provided to the Commission prior to the start of the hearing and made the following comments:

- She is an activist and a patient;
- Cannot grow at her residence;
- Helps run a cooperative
- If cooperatives are banned, then there will be no safe access for patients to obtain their medicine; and
- Presented video on ABC's Bob Woodruff interview with Jeff Landay.

Jeff Landay made the following comments:

- Has had 44 operations and only wanted to take organic medications;
- Originally was against medical marijuana until he researched it; and
- Medical marijuana allows him to function normally (i.e., speak, read, sleep).

Lindy Williams made the following comments:

- Requested legal non-conforming for current established cooperatives;
- If dispensaries are banned, growers will need to cultivate more;
- Public needs safe access to obtain medication;
- Provided informational binder to Commission; and
- Having established dispensaries keeps out the criminal element.

Mike Post made the following comments:

- Cancer patient;
- Has been smoking since 19; and
- If he has to go out of the County to obtain his medication, he will more than likely shop there, too.

Don Lamb made the following comments:

- Vietnam veteran and was exposed to Agent Orange;
- Lost eye sight 4 years ago and medication costs \$400/month but the medical marijuana, which works better, costs only \$100/month at the collective; and
- Collectives are very safe.

Tiffany Padrosa made the following comments:

- Medical marijuana patient;
- Doctors can't do anything for her except to offer anti-seizure medications, but she is allergic to opiates;
- Couldn't function as a wife, mother and student without her medication;
- Medical marijuana does wonders for her and doesn't know where she would go if the collectives were closed;
- Has been put in a precarious position;
- Collectives provide her support; and
- Doesn't want to be labeled as a criminal in order to get her medication.

Kent Davis made the following comments:

- Medical marijuana patient;
- Moved 2,000 miles to live in an area where it was legal; and
- Legal access is crucial.

Karen Bartholomew made the following comments:

- Medical marijuana patient;
- Can't take pain pills or high blood pressure pills but medical marijuana helps;
- Medical marijuana is a miracle drug; and
- Has been to 6 dispensaries and all of them verify your authorization.

Kyle Speakman stated he had many genetic disorders and read an article to the Commission.

Kelly Chiusana, Pure Life Collective, made the following comments:

- Questioned the timing on why the Commission had such a short time to consider the Ordinance;
- Referenced his written comments submitted earlier;
- Need to continue to provide safe access;
- Clients are required to have valid California ID and a membership agreement;
- Information is validated with the doctor's office;
- Environment is similar to a doctor's office;

- Patient selects their own medications, but is always under surveillance;
- They are a non-profit organization;
- There are daytime and nighttime medications;
- Medications are sealed, labeled, and put in a second sealed bag;
- Members that are also growers are allowed to drop off extra medications on a consignment basis and they are provided 1099 forms;
- Provides testing of medications for members;
- Employs 9 staff; and
- They were established prior to the Urgency Ordinance.

Patrick Eule made the following comments:

- Was arrested and put in the Mountain Democrat labeled as a user because he was growing;
- Is a cancer patient;
- Patients need safe access to medication; and
- Better selection/screening process is needed to identify the “greedy” persons and attract the more compassionate people.

Matt Vaughn, Medical Marijuana Caregivers Association of El Dorado County, made the following comments:

- Spoke on due process and referenced his submitted written comment;
- There had been no noticing when the County had removed the word “dispensaries” a few years back;
- Spoke on the Compassionate Use Act; and
- There will be undue hardship if they are banned.

Mitch Fadel, American Alliance for Medical Cannabis, read into the record various laws and codes. He spoke on safe and affordable access.

Mark Frost, representing his wife who was diagnosed with MS 10 years ago, made the following comments:

- Medical marijuana is a miracle;
- Allow reasonable dispensing of medication; and
- Not capable of having a grow.

Jeff Patterson, Sacramento County resident, made the following comments:

- Has suffered through many collectives having to close;
- Shouldn't have to drive over 20 miles to obtain medication; and
- Questioned why the County wanted to be more restrictive than State law.

Aneka Rodriguez, All Natural, made the following comments:

- Had invited the Board, the Commission, and the Sheriff's Department to have a conversation with them;
- Has attended public group meeting to discuss issue;

- They are not going to go away;
- Asked what they were supposed to tell the patients if they are banned;
- Requested that they be told what they need to do;
- Has 9 volunteers;
- Everything is tested; and
- They are also an educational center.

Chair Pratt closed public comment.

Significant discussion ensued between staff and the Commission on what their options were, particularly since the Board had indicated that they wanted a ban on the distribution facilities.

Commissioner Stewart made the following comments:

- Keyword is “medical”;
- Struggling on how to separate out the medical from the recreational; and
- Considering adding collectives to Section 7.c.

Commissioner Mathews stated that it was hypocritical to allow outdoor cultivation but ban the distribution facilities.

Commissioner Shinault made the following comments:

- There is a need for medical marijuana;
- Questioned how to keep the doors open;
- Today’s public testimony is different from public perception; and
- No matter what the Commission does, the Board will take their own action.

Chair Pratt made the following comments:

- Today was the first time they had discussions with the Sheriff’s Department and have had no conversations with the District Attorney’s Office; and
- The Commission needs to relay to the Board that they don’t want to ban but instead allow the distribution facilities which are allowed by State law.

Chair Pratt invited the representatives from the three collectives to the podium for further discussion.

Mr. Maurer wanted to clarify that the Board did not leave this issue to the last minute as staff had been aware of this since last year and due to other priorities had not started the process until later. He also stated that the directive from the Board and law enforcement was that any distribution of marijuana is illegal under the Federal law.

Chair Pratt commented that there was no way they could finesse the Ordinance so they would have to recommend the moratorium lapse.

Mr. Maurer suggested that the most effective way to get their feelings to the Board would be to add the word “new” into the Ordinance and provide the Board their intent.

Commissioner Mathews was comfortable with capping the number of collectives to those established now.

Discussion ensued between the Commission and County Counsel David Livingston if Section 2.G should be removed if the word “new” was added.

There was no further discussion.

MOTION #1

Motion: Commissioner Pratt moved, seconded by Commissioner Mathews, and carried (3-1), to recommend the Board of Supervisors take the following actions: 1. Find that the adoption of the proposed ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines; and 2. Adopt an amendment to Title 17 of the County Code prohibiting medical marijuana distribution facilities based on the Findings as modified: (a) Add the word “new” before medical marijuana distribution facility in Section 2.D; (b) Delete Section 2.G; and (c) Incorporate staff’s recommended changes submitted at today’s hearing.

AYES: Shinault, Mathews, Pratt

NOES: Stewart

ABSENT: Heflin

MOTION #2

Motion: Commissioner Mathews moved, seconded by Commissioner Stewart, and carried (4-0), to recommend the Board of Supervisors upon adoption of the ordinance (OR13-0001) that they further adopt a Resolution of Intention to amend the ordinance to address the following items: (a) Allow safe access; (b) Establish limitations on new dispensaries; (c) Processing of product; and (d) Capitalize on economic opportunities.

AYES: Shinault, Stewart, Mathews, Pratt

NOES: None

ABSENT: Heflin