



CITY OF GRAND TERRACE
CITY COUNCIL, CITY COUNCIL AS THE SUCCESSOR AGENCY
TO THE COMMUNITY REDEVELOPMENT AGENCY
AND HOUSING AUTHORITY
MINUTES • AUGUST 14, 2019

Council Chambers	Special Meeting Workshop	6:00 PM
Grand Terrace Civic Center • 22795 Barton Road		

CALL TO ORDER

Mayor Darcy McNaboe convened the Special Meeting Workshop of the City Council, City Council as the Successor Agency to the Community Redevelopment Agency and Housing Authority for August 14, 2019 at 6:00 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor McNaboe.

Attendee Name	Title	Status	Arrived
Darcy McNaboe	Mayor	Present	
Doug Wilson	Mayor Pro Tem	Present	
Sylvia Robles	Council Member	Present	
Bill Hussey	Council Member	Present	
Jeff Allen	Council Member	Present	
G. Harold Duffey	City Manager	Present	
Adrian Guerra	City Attorney	Present	
Debra Thomas	City Clerk	Absent	
Alan French	Public Works Director	Present	
Sandra Molina	Planning & Development Services Director	Present	
Cynthia A. Fortune	Assistant City Manager	Present	

A. PUBLIC COMMENT

Stephen Kendall, Grand Terrace shared with the Council his disability and would like to be sure he can grow three or four organic plants and to make sure they stay in the same range of potency.

Patricia Taylor, Grand Terrace shared her disability with the Council. She supports medical marijuana and asked the City Council to provide easier access to the medication and aid in reducing pricing.

Jeffrey McConnell, Grand Terrace asked City Council to allow public comment after the presentation as the topic is very confusing.

Cynthia Fortune, Assistant City Manager announced that an email was received from Kim Stromwell in opposition to cannabis in the community.

Shawn Shirazi, Science Advisor for Shunk Rock Farms and is an expert in the pharmacology of various phytocannabinoids and is available to answer any questions on the actual science.

B. NEW BUSINESS

1. CANNABIS LAW WORKSHOP

Presentation, Discussion and Direction Regarding Federal, State and Local Laws/Regulations Pertaining to Cannabis

Adrian Guerra, City Attorney stated over the last 30 years State law on cannabis has significantly changed. It is a complex area and there are dynamics between Federal and State law. Under Federal law it is still a Class 1 prohibited drug. Under State law it is allowed and there are many licenses the State has approved that Cities can regulate and allow. It is allowed to be used by anyone above the age of 21. The FDIC, federally insured banks, cannot work with sellers of cannabis because it is deemed a Class 1 drug under Federal law; however, the State is looking to create a bank to allow it. Staff and Council thought it would be a good idea to conduct a workshop to identify all of the areas of law under Federal, State and local regulations and what Cities can and cannot do.

Benjamin Jones, Assistant City Attorney for the City of Carson gave the Power Point presentation for this item.

He has been an attorney since 2013 and got his start in cannabis regulation with the City of Desert Hot Springs with their legalization, regulation and tax that was put in affect before Prop 64 passed. He has helped set up regulatory programs for the Cities of Arvin, Suisun City and implementation efforts for the Cities of Carson, Hesperia and Perris among others.

Assistant City Attorney Jones will provide the status of Federal law on cannabis, State license types, various cannabis uses and how the State divides cannabis uses up for purposes of licensing, and how to establish local regulations.

Assistant City Attorney Jones power point presentation provided information on the following:

- Federal Regulations
- History of California Regulation - Medical Marijuana
- California Law Today
- Industrial Hemp - Not “Cannabis”
- Cannabidiol (CBD) and CBD Oil
- Overview of State License Types
- State Regulators
- State License Types - Cultivation
- Cultivation License Types:
 - o Specialty Cottage
 - o Specialty
 - o Small
 - o Medium
 - o Large
 - o Nursery
- State License Types:
 - o Manufacturer
 - o Testing Lab
 - o Retailer
 - o Distributor
 - o Microbusiness
- Cannabis Taxation:
 - o State
 - o Local
- Establishing Local Regulations
- Local Regulations - Implementation

ADJOURN

Mayor Darcy McNaboe adjourned the Special Meeting Workshop of the City Council at 7:50 p.m. The Next Regular City Council Meeting will be held on Tuesday, August 27, 2019 at 6:00 p.m.

Darcy McNaboe, Mayor

Debra L. Thomas, City Clerk



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ATTACHMENTS TO

August 14, 2019

City Council Minutes

PowerPoint Presentations

CANNABIS - FEDERAL, STATE AND LOCAL REGULATION



CITY OF GRAND TERRACE – CANNABIS WORKSHOP

August 14, 2019

Benjamin R. Jones, Esq.; Aleshire & Wynder, LLP

FEDERAL REGULATION (CANNABIS)



- 1970 – Federal Controlled Substances Act
- 2005 – Gonzalez v. Raich (U.S. Supreme Ct., 2005) 545 U.S. 1
- 2013 – U.S. DOJ deprioritizes CSA enforcement against cannabis in states which regulate
- 2014 – Congress defunds federal enforcement of CSA against medical cannabis in states which regulate
- 2015 – USA v. Marin All. For Med. Marijuana (N.D.Cal. 2015) 139 F.Supp.3d 1039
- 2016 – USA v. McIntosh (9th Cir. 2016) 833 F.3d 1163
- 2018 – U.S. Attorney General Sessions creates uncertainty
- 2018 – Federal Gov't resumes hands off approach to state-legal cannabis activities; federal law heavily restricts access to banking services
- 2019- CSA remains valid law; 33 states and DC have legal medical cannabis; 10 states and DC have legal adult-use cannabis

HISTORY OF CALIFORNIA REGULATION - MEDICAL MARIJUANA



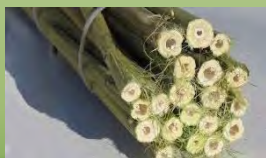
- 1996 – Compassionate Use Act (Prop 215)
- 2003 – Medical Marijuana Program Act (SB 420)
- 2015 – Medical Marijuana Regulation and Safety Act (MMRSA) (AB 243, AB 266, SB 643) (name change to MCRSA in 2016 – SB 837)

CALIFORNIA LAW TODAY

- AUMA - The Control, Regulate and Tax Adult Use of Marijuana Act (Prop 64)
 - Passed by California voters on November 8, 2016
 - Legalized cannabis for adult use and personal cultivation (up to six plants)
 - “Adult use” = 21+; recreational; non-medicinal
 - Allows commercial cultivation and sale of cannabis for adult use subject to state and local licensure (but cannot sell within 600 feet of school, day care center, or youth center)
- MAUCRSA - The Medicinal and Adult-Use Cannabis Regulation and Safety Act (SB 94)
 - B&P Code Division 10 (Sections 26000 et seq.)
 - Legislature’s Response to Prop 64
 - Repealed MCRSA, but included certain MCRSA provisions into the licensing provisions of AUMA, creating consolidated regulatory scheme governing both medicinal and adult-use cannabis
 - Focuses on regulation of cannabis businesses
 - Dual licensing scheme – Preserves local control

INDUSTRIAL HEMP – NOT “CANNABIS”

- Defined - A crop that is limited to types of the plant *Cannabis sativa* L. having no more than 0.3% THC contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom. CHSC §11018.5.
- Expressly exempted from state law definition of “cannabis.” B&P Code §26001(f).
- Federal Agriculture Improvement Act of 2018 (Farm Bill)
 - Confirms legalization of hemp; no longer a controlled substance, unlike cannabis
 - CSA had failed to distinguish hemp from cannabis
 - 2014 Farm Bill had allowed for limited industrial hemp pilot programs
- California Industrial Hemp Farming Act (2013)
 - Provides for the cultivation of industrial hemp by registered growers and established agricultural research institutions.
 - No requirements/regulations applicable to manufacturing, processing or sale (yet)



CANNABIDIOL (CBD) AND CBD OIL



- Found in cannabis plants (including hemp) like THC, but non-psychoactive
- Can be extracted into an oil used for medicinal purposes
- CBD oil from cannabis = cannabis
- CBD oil from hemp = hemp (≠ cannabis)
- Lower THC generally means lower CBD, so relatively large amount of plant material may be needed for hemp-based CBD oil

STATE LICENSE TYPES - OVERVIEW

- Cultivator
- Manufacturer
- Testing Laboratory
- Retailer
- Distributor
- Microbusiness

STATE REGULATORS

- Bureau of Cannabis Control (BCC)
 - State Licensing of:
 - Retailers (including delivery)
 - Distributors
 - Testing Labs
 - Microbusinesses
 - Regulations: CCR, Title 16, Division 42
- Cal. Dept. of Public Health
 - State Licensing of Manufacturers
 - Regulations: CCR, Title 17, Chapter 13
- Cal. Dept of Food & Agriculture
 - Stated Licensing of Cultivators
 - Regulations: CCR, Title 3, Division 8

STATE LICENSE TYPES - CULTIVATION

- Type 1 - Cultivation; Specialty outdoor; Small.
- Type 1A - Cultivation; Specialty indoor; Small.
- Type 1B - Cultivation; Specialty mixed-light; Small
- Type 1C - Cultivation; Specialty cottage; Small.
- Type 2 - Cultivation; Outdoor; Small.
- Type 2A - Cultivation; Indoor; Small.
- Type 2B - Cultivation; Mixed-light; Small.
- Type 3 - Cultivation; Outdoor; Medium.
- Type 3A - Cultivation; Indoor; Medium.
- Type 3B - Cultivation; Mixed-light; Medium.
- Type 4 - Cultivation; Nursery.
- Type 5 - Cultivation; Outdoor; Large.
- Type 5A - Cultivation; Indoor; Large.
- Type 5B - Cultivation; Mixed-light; Large.



STATE LICENSE TYPES – CULTIVATION (Cont'd)

- “Cultivation” – Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis
- “Canopy” – Designated areas that will contain mature plants at any time
 - measured in square feet;
 - clearly identifiable boundaries;
 - stacking – count each level
- Groupings:
 - Specialty Cottage
 - Specialty
 - Small
 - Medium
 - Large(each: Indoor; Outdoor; Mixed-Light)
- Nursery



CULTIVATION LICENSE TYPES – SPECIALTY COTTAGE

- Type 1C - Cultivation; Specialty cottage; Small.
 - Outdoor cultivation of up to 25 mature plants
 - Outdoor = no artificial light
 - Indoor cultivation of up to 500 square feet of total canopy
 - Indoor = exclusively artificial light
 - Mixed-light cultivation of up to 2,500 square feet of total canopy
 - Mixed Light = A combination of natural and supplemental artificial lighting
 - Tier 1 – Up to 6 watts/square foot
 - Tier 2 – 6 to 25 watts/square foot
 - On one premises.

CULTIVATION LICENSE TYPES - SPECIALTY

- Type 1 - Specialty outdoor; Small.
 - An outdoor cultivation site of up to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.
- Type 1A - Specialty indoor; Small.
 - An indoor cultivation site of between 501 and 5,000 square feet of total canopy size.
- Type 1B - Specialty mixed-light; Small.
 - Mixed-light cultivation of between 2,501 and 5,000 square feet of total canopy size on one premises.
 - Tier 1
 - Tier 2

CULTIVATION LICENSE TYPES - SMALL

- Small = 5,001 – 10,000 square feet of total canopy
- Type 2 - Outdoor; Small.
- Type 2A - Indoor; Small.
- Type 2B - Mixed-light; Small.
 - Tier 1
 - Tier 2

CULTIVATION LICENSE TYPES - MEDIUM

- Type 3 - Outdoor; Medium.
 - Between 10,001 sq. ft. and one acre (43,560 sq. ft.) of total canopy
- Type 3A - Indoor; Medium.
 - Between 10,001 sq. ft. and 22,000 square feet of total canopy
- Type 3B - Mixed-light; Medium.
 - Between 10,001 sq. ft. and 22,000 square feet of total canopy
 - Tier 1; Tier 2

CULTIVATION LICENSE TYPES - LARGE

- Type 5 - Outdoor; Large.
 - Outdoor cultivation of greater than one acre of total canopy size
- Type 5A - Indoor; Large.
 - Indoor cultivation of greater than 22,000 sq. ft. of total canopy size
- Type 5B - Mixed-light; Large.
 - Mixed-light cultivation of greater than 22,000 sq. ft. of total canopy size
- No type 5, 5A or 5B cultivation licenses may be issued before January 1, 2023 (B&P Code 26061)



CULTIVATION LICENSE TYPES - NURSERY

- Type 4 - Cultivation; Nursery.
 - Cultivation of cannabis solely as a nursery
 - Nursery = All activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.



STATE LICENSE TYPES - MANUFACTURER

- “Cannabis products” - cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- Type 6 – Manufacturer Level 1
 - Nonvolatile or no solvents
- Type 7 – Manufacturer Level 2
 - Volatile solvents
- Type N – No extraction; Can also package and label
- Type P – Packaging and labeling only
- Type S – Manufacturing in shared use facilities (manufacturing premises operated by a Type 6, Type 7 or Type N Licensee



STATE LICENSE TYPES – TESTING LAB

- Type 8 – Testing Laboratory
 - Cannabis shall not be sold pursuant to state license unless a representative sample has been tested by a licensed testing lab
 - Confirms chemical profile of sample conforms to labeled content, including with respect to THC and CDB content



STATE LICENSE TYPES – RETAILER

- Type 9 – Non-Storefront Retailer
 - Sales by delivery only
 - Must maintain licensed premises from which deliveries are conducted
- Type 10 – Retailer
 - Storefront “dispensary”
 - Sales by delivery also allowed
- Note: BCC Regulations on Delivery eroding local control; litigation pending



STATE LICENSE TYPES – DISTRIBUTOR

- Type 11 – Distributor
 - Wholesale – between licensees
- Type 13 – Distributor (Transport Only)
 - Only immature cannabis plants and seeds to retailers



STATE LICENSE TYPES – MICROBUSINESS

- Type 12- Microbusiness
 - At least 3 of 4:
 - Cultivator (less than 10,000 sq. ft);
 - Manufacturer Level 1 (non-volatile);
 - Distributor;
 - Retailer.

CANNABIS TAXATION - STATE

- Excise Tax – 15% of “Average Market Price” (approved per AUMA)
 - Imposed on purchasers of cannabis/cannabis products
 - “Average Market Price” computed as actual wholesale price x “mark up”
 - “Mark up” is not actual mark up, but rather a rate set by CDTFA, currently 60%
 - So not based on gross receipts
- Cultivation Tax (approved per AUMA)
 - Imposed on cultivators
 - \$9.25 per ounce of dry-weight flowers.
 - \$2.75 per ounce of dry-weight leaves.
 - \$1.29 per ounce of “fresh plant.”
 - Excludes immature plants and seeds.
- Standard sales and use tax (retail sales only; medicinal exemption available)

CANNABIS TAXATION - LOCAL

- State law does not preempt local taxation
- Local “cannabis tax” can be enacted with voter approval
 - City Council approves tax ordinance for placement on ballot (2/3 vote)
 - Simple majority for general tax; 2/3 majority for special tax
 - Gross Receipts; Per-square-foot methodologies available
 - Establish maximum rate by ordinance; Council can then set/adjust actual rate thereafter without voter approval, subject to maximum
- Standard sales and use tax revenue always available (retail sales only; subject to available medicinal exemption)
- Must be careful to avoid deterring businesses with prohibitive costs/expenses

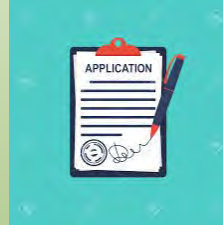


ESTABLISHING LOCAL REGULATIONS

- Adopt Ordinance establishing permitting system and regulations
 - Determine what type of permit(s) to require
 - Business License; Conditional Use Permit; Regulatory Permit
 - Consider: Level(s) of Approval; Discretionary vs. Ministerial; Authority to Impose Conditions; Revocation Requirements
 - Determine zone(s) in which cannabis uses may be permitted
 - Can create cannabis overlay zone
 - Determine permitted and prohibited cannabis uses
 - Identify by state license types
 - Application Requirements; Fees; Review Process
 - Safety Regulations – General and for each license type (more stringent than state regulations)
 - Renewal; Appeals; Suspension; Revocation
 - Authority to City Manager or designee to promulgate regulations

LOCAL REGULATIONS – IMPLEMENTATION

- Fee Resolution
 - Fee Study/Analysis
 - Hearing Process
- Application Forms
- Staff assignment/training
- Processing background checks (livescan)
- Employee Work Permits
- Development Agreements
- Get Tax Approved First



QUESTIONS?

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