



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: November 12, 2009

ATTENTION: City Council

SUBJECT: Recommendations from the Medical Marijuana Task Force

REQUESTED ACTION: Accept the Report

BACKGROUND:

On October 6, 2009, the San Diego City Council voted to establish a Medical Marijuana Task Force [hereinafter "Task Force"] to advise the City Council on: (1) guidelines for medical marijuana patients and primary caregivers; (2) guidelines for the structure and operation of medical marijuana cooperatives and/or collectives; and (3) guidelines for police department enforcement regarding medical marijuana. The resolution establishing the Task Force further provided that the Task Force was to report back to the City Council by the end of 2009 with recommendations regarding land use and zoning issues. The Council appointed eleven members, with a broad range of perspectives and backgrounds, to serve on the Task Force. This report provides a summary of the Task Force's work along with its recommendations regarding land use and zoning regulations for collectives and cooperatives that dispense medical marijuana to qualified patients.

OVERVIEW:

The Task Force met five times over the course of five weeks to discuss recommendations for the land use and zoning of medical marijuana collectives and cooperatives within the City of San Diego. The meetings were conducted pursuant to the Brown Act and open to the public. The Task Force was fortunate to receive helpful input from the public at these meetings and relied on a wide range of documents and reports to inform our work, including ordinances from over three dozen other cities and counties in California regulating medical marijuana collectives and cooperatives. The Task Force's recommendations appear in full below. In general, however, the recommendations reflect a shared belief by the Task Force that the best way for the City Council to address the issue of medical marijuana collectives and cooperatives is to adopt an ordinance that closely regulates such entities. We believe that by closely regulating collectives and cooperatives, the City of San Diego can ensure that qualified patients have safe access to their lawfully recommended medicine and prevent against the dangers attendant to unregulated or otherwise illegitimate operators. Though some members of the Task Force differed on specific recommendations, we all were in agreement on this central principle. In addition, while the members who voted against specific recommendations adhere to those votes, at the conclusion of the Task Force's work, the Task Force unanimously voted to approve a draft of this report as a package of recommendations for your further consideration.

RECOMMENDATIONS:

The Task Force voted on recommendations for a number of specific land use and zoning-related issues. We considered and voted on each issue one at a time. By the nature of the project, the Task Force could not consider and vote on every possible land use or zoning-related consideration. Accordingly, these recommendations are meant to provide general advice to the City Council about the items that we believe would be especially important to include in any ordinance that regulates the land use and zoning of medical marijuana collectives and cooperatives. The following is a list of each recommendation of the Task Force, along with a voting breakdown and, where helpful, brief explanatory text.

- **Permitting process for dispensing cooperatives and collectives:** The Task Force recommends that the City of San Diego implement a two-tiered permitting system for medical marijuana cooperatives and collectives, whereby dispensing cooperatives and collectives with less than 100 members may obtain a use permit through a Process 2 as described in Chapter 11 Article 02 Division 5 of the San Diego Municipal Code and dispensing cooperatives and collectives with 100 or more members must obtain a use permit through a Process 3 as described in Chapter 11 Article 02 Division 5 of the San Diego Municipal Code.

- Vote: This recommendation was adopted by a vote of 9-2 (aye – Larry Sweet, John Minto, Dave Potter, Alex Kreit, Mark-Robert Bluemel, Kim Twolan, Craig Balben, Rev. Wayne Riggs, Dr. Tom Cummings; nay – Dave Martin and Stephen Whitburn.)

- Background: Prior to adopting this recommendation, the Task Force reached a tie vote of 5 – 5 in an earlier meeting on the question of whether to allow cooperatives and collectives to exist by right under a Process 1 as described in the San Diego Municipal Code (aye – Stephen Whitburn, Larry Sweet, Tom Cummings, Mark-Robert Bluemel, Kim Twolan; nay – John Minto, Dave Potter, Alex Kreit, Craig Balben, Rev. A. Wayne Riggs; Dave Martin Absent.) During that vote, some of the members who voted to support a “by right” process expressed concern that there was a possibility a purely discretionary process may result in blanket denials of permits.

The Task Force ultimately voted to recommend the two-tiered system described above after concluding that a discretionary permitting process for medical marijuana cooperatives and collectives has proved to be successful in other cities and counties in California. A majority of the Task Force felt that the relevant discretionary standards in the San Diego Municipal Code would ensure that permits will be issued to cooperatives and collectives who meet the necessary requirements of Processes 2 and 3.

- **Permitting Renewals:** The Task Force recommends that conditional use permit expiration and renewal for dispensing collectives and cooperatives follow the process outlines in Chapter 12 Article 6 Division 3 of the San Diego Municipal Code.

- Vote: 11-0

• **Zoning of Dispensing Medical Marijuana Collectives and Cooperatives:** The Task Force recommends that dispensing cooperatives and collectives be allowed to locate (by permit as outlined above) in the following zones under the City of San Diego Municipal Code: Commercial – Regional (CR), Commercial – Office (CO), Commercial – Community (CC), Commercial—Neighborhood (CN), Commercial – Visitor (CV), Industrial – Park (IP), Industrial – Light (IL) and Industrial – Heavy (IH).

• Vote: 11-0.

• Background: The original proposed motion included all of the zones that are included in the final recommendation except for CN and CV. The CN and CV zones were added pursuant to amendments that passed by votes of 8-3 (aye – Larry Sweet, Craig Balben, Mark-Robert Bluemel, Dr. Tom Cummings, Kim Twolan, Rev. Wayne Riggs, Stephen Whitburn, Alex Kreit; nay – Dave Martin, Dave Potter, John Minto) and 9-2 (aye- Dr. Tom Cummings, Craig Balben, Kim Twolan, Mark-Robert Bluemel, Dave Martin, Dave Potter, Stephen Whitburn, Alex Kreit; nay – John Minto, Larry Sweet) respectively.

• Location within Planned District Ordinances: The Task Force recommends that the City of San Diego include uses similar to those recommended by the Task Force for base zones in Planned District Ordinances (PDOs). Vote: 10-0-1 (Dave Martin absent).

• **Distance requirements to be placed on dispensing collectives and cooperatives:** The Task Force recommends that the dispensing cooperatives and collectives within the City of San Diego shall not be located: (a) within a 1,000-foot radius of schools, playgrounds, libraries, child care facilities, and youth facilities, including but not limited to youth hostels, youth camps, youth clubs, etc., and other similar uses; and dispensing cooperatives and collectives within the City of San Diego shall not be located (b) within a 500-foot radius of other dispensing cooperatives and collectives.

• Vote: Recommendation (a) was approved by a vote of 8 – 3 (aye – Larry Sweet, Dave Potter, Alex Kreit, Stephen Whitburn, Mark-Robert Bluemel, Kim Twolan, Rev. Wayne Riggs, Dr. Tom Cummings; nay – John Minto, Dave Martin, Craig Balben). Recommendation (b) was approved by a vote of 9 – 2 (aye – Larry Sweet, John Minto, Dave Potter, Dave Martin, Alex Kreit, Stephen Whitburn, Mark-Robert Bluemel, Kim Twolan, Rev. Wayne Riggs; nay – Craig Balben, Dr. Tom Cummings).

• Background: The Task Force also considered whether to include parks and places of religious worship among the locations specified in recommendation (a). The original proposed motion included parks and places of religious worship among the specified locations, but each was removed pursuant to amendments that each passed by a vote of 7 – 4 (aye – Larry Sweet, Alex Kreit, Stephen Whitburn, Mark-Robert Bluemel, Kim Twolan, Rev. Wayne Riggs, Dr. Tom Cummings; nay – John Minto, Dave Potter, Dave Martin, Craig Balben).

- **Not-for-Profit Operation:** The Task Force recommends that the City require dispensing collectives and cooperatives to submit, as part of their application for a conditional use permit, evidence that they are incorporated as statutory cooperatives or bona fide nonprofit corporations, or documentation outlining their plans for operating in a not-for-profit manner, as contemplated by the Attorney General's guidelines.

- Vote: 11-0.

- **Security:** The Task Force recommends that the City of San Diego require medical marijuana cooperatives and collectives to have an adequate and operable security system that includes security cameras and alarms and for a licensed security guard to be present at the cooperative or collective at all times during business hours. All security guards must be licensed and possess a valid Department of Consumer Affairs "security guard card" at all times.

- Vote and background: 7-3-0 (aye – John Minto, Dave Potter, Dave Martin, Alex Kreit, Stephen Whitburn, Craig Balben and Rev. Wayne Riggs; nay – Larry Sweet, Mark-Robert Bluemel, Dr. Tom Cummings; absent – Kim Twolan). Some dissenting members expressed concern that the security requirements, particularly the requirement concerning a licensed guard, may be too costly for smaller cooperatives and collectives.

- **Lighting:** The Task Force recommends that the City of San Diego adopt the following use requirement with regard to lighting for medical marijuana cooperatives and collectives: lighting shall adequately illuminate the dispensing cooperative and collective, its immediate surrounding area, any accessory uses including storage areas, the parking lot, the dispensing cooperative and collective's front façade, and any adjoining public sidewalk; and lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

- Vote: 10-0-0 (Kim Twolan absent).

- **Hours of Operation:** The Task Force recommends that the hours of operation for medical marijuana cooperatives and collectives shall be limited to 7:00 A.M. to 9:00 P.M. seven days a week.

- Vote: 9-1-0 (aye – Larry Sweet, John Minto, Dave Potter, Dave Martin, Alex Kreit, Stephen Whitburn, Mark-Robert Bluemel, Rev. Wayne Riggs, Dr. Tom Cummings; nay – Craig Balben; absent – Kim Twolan).

- **Signage:** The Task Force recommends that the City of San Diego place the following use conditions on the signage of dispensing cooperatives and collectives: (a) all signage shall comply with San Diego's current ordinance as described in Chapter 14 Article 2 Division 12 of the San Diego Municipal Code (b) That signs will remain limited to the name of the establishment and the design limited to two colors. (c) That all dispensaries shall display on their wall sign or identification sign, the name and emergency contact phone number of the operator or manager in letters at least two inches in height. (d) That dispensaries shall post a legible indoor sign in a conspicuous location containing the

following warnings: (i) That the diversion of marijuana for non-medical purposes is a violation of state law; (ii) That the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery; and (iii) That loitering on and around the dispensary site is prohibited by California Penal Code section 647(e).

• Vote: 11-0

CONCLUSION: The Task Force recommends that the City of San Diego closely regulate medical marijuana collectives and cooperatives in order to ensure that qualified patients have safe access to their lawfully recommended medicine and to prevent against the dangers attendant to unregulated or otherwise illegitimate operators. While the Task Force members who voted against specific recommendations adhere to those votes, at our final meeting, the Task Force unanimously voted to approve a draft of this report as a package of recommendations for your further consideration.

FISCAL CONSIDERATIONS: NONE

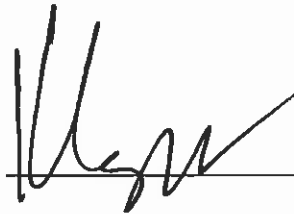
PREVIOUS COUNCIL and/or COMMITTEE ACTION: NONE

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: NONE

KEY STAKEHOLDERS AND PROJECTED IMPACTS: NONE



Task Force Chair



City Council Staff to the Task Force