



Medical Cannabis Commission

CONSENT CALENDAR

April 25, 2017

To: Honorable Mayor and Members of the City Council
From: Medical Cannabis Commission
Submitted by: David Lampach, Chairperson, Medical Cannabis Commission
Subject: Modification of Medical Cannabis Commission Name and Mission; Amending
BMC Section 12.26.110

RECOMMENDATION

Review the information provided in this report and upon conclusion, adopt a first reading of an Ordinance amending BMC Section 12.26.110 to change the name and mission of the Medical Cannabis Commission to include recreational cannabis.

FISCAL IMPACTS OF RECOMMENDATION

The MCC did not discuss the fiscal impacts of this of this action.

Staff anticipates that medical cannabis businesses in California will continue to exist to provide medicine for qualified patients even as recreational cannabis businesses come on-line. For this reason, the need for the MCC is expected to continue regardless of changes to recreational cannabis that may occur due to changes at the federal or state level.

The staff time currently allotted to development of medical cannabis ordinances and regulations would be applied to the development and review of recreational cannabis regulations. For this reason, this recommendation will result in minimal change to costs in terms of staff time.

CURRENT SITUATION AND ITS EFFECTS

The ordinance would change the name of the Medical Cannabis Commission to "Cannabis Commission", and would amend the purpose of the Commission to include recreational cannabis. These changes would allow the Commission to advise the City Council on issues related to both medical cannabis and recreational cannabis.

The Adult Use of Marijuana Act (AUMA), also known as Proposition 64, was approved by California voters in November 2016. In Berkeley, the measure passed by 83% of the vote.

The City of Berkeley currently does not have a commission to provide feedback on proposals to regulate recreational cannabis. This ordinance would allow the Medical Cannabis Commission to advise the Council on these issues by a) modifying the name of the Commission and b) expanding the mission of the Commission.

At the January 5, 2017 MCC meeting, the Commission unanimously approved a recommendation that the City Council should amend the name and mission of the Commission to include recreational cannabis (Yes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice; No: none; Abstain: none; Absent: Carlisle). This recommendation was made as part of a response to a Council referral requesting MCC recommendations related to recreational cannabis.

BACKGROUND

The MCC initially established under the authority of the Patients Access to Medical Cannabis Act of 2008 (Measure JJ). In November 2010, Berkeley voters passed Measure T, which made changes to the structure and responsibilities of the Commission. Since 2011, the MCC has developed draft ordinances for medical cannabis dispensaries and cultivation facilities, developed a selection process for Council approval of additional dispensaries, and is currently working on draft ordinances to regulate delivery-only dispensaries. The MCC also is a resource for other Commissions and Council to use when either considering regulations that could affect medical cannabis patients or responding to changing state requirements.

In October 2015, the Governor signed the Medical Marijuana Regulation and Safety Act (MMRSA). This new law established the state's first regulatory system and licensing authority for medical cannabis businesses.

The Adult Use of Marijuana Act (AUMA), also known as Proposition 64, was placed on the November 2016 statewide ballot. In July 2016, the City Council requested that the MCC provide recommendations to the Council in early 2017 on "implementation, operating standards, selection of dispensaries and local tax options" in the event of passage of AUMA.

The MCC created a list of 10 recommendations for the Council to consider when developing new regulations for recreational cannabis (see Information Item presented to Council on March 28, 2017). The first recommendation called for modifying the name and mission of the MCC so that the commission could consider new ordinances and regulations related to recreational cannabis.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental effects anticipated with the recommendation of this report.

RATIONALE FOR RECOMMENDATION

There are five reasons that the MCC is making this recommendation:

1. Similarity between medical cannabis and recreational cannabis issues: The State of California is concurrently developing regulations for medical cannabis and recreational cannabis, and it is expected that these regulations will be very similar. It is also anticipated that the state will not create separate licensing authorities for medical and recreational cannabis. This means that knowledge of medical cannabis issues and regulations will be easily translated to recreational cannabis.
2. The MCC is a subject expert and established resource: The MCC is already familiar with medical cannabis issues. It is an established resource for members of the community to come with questions and recommendations related to medical cannabis. Using the MCC to consider recreational cannabis issues will allow the City to benefit from the experience and knowledge of this group.
3. Robust public outreach: The MCC has established connections in the medical cannabis and recreational cannabis community. The public is accustomed to receiving information from this group and attending MCC meetings. Using the MCC as community liaison will simplify public outreach related to recreational cannabis.
4. Reduced Time: The State is expected to have business regulations for recreational cannabis businesses in place by January 2018. The sooner the City can establish regulations for businesses to operate, the sooner the city can start collecting taxes from these businesses. Modifying the MCC's name and mission would be much faster than establishing a new Commission, and would allow the City to expedite collection of community feedback on any proposed new ordinances related to recreational cannabis.
5. Reduced Cost: Public input will be very important in the development of these new regulations. Allowing the MCC to consider recreational cannabis issues will avoid the need for a separate commission, which would involve additional staff time to establish and operate.

ALTERNATIVE ACTIONS CONSIDERED

The Council could choose to keep the MCC name and mission focused on medical cannabis issues.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's report.

CONTACT PERSON

Elizabeth Greene, Commission Secretary, (510) 981-7484
David Lampach, Chairperson, Medical Cannabis Commission

Charles Pappas, former Chairperson, Medical Cannabis Commission

Attachments:

- 1: Ordinance Amending the Berkeley Municipal Code Section 12.26.110 (Medical Cannabis Commission)

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 12.26.110 TO CHANGE THE NAME AND MISSION OF THE MEDICAL CANNABIS COMMISSION TO INCLUDE RECREATIONAL CANNABIS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 12.26.110 is amended to read as follows:

12.26.110 ~~Medical~~ Cannabis Commission.

The purpose of this Section is to ensure that ~~medical~~-cannabis provision in Berkeley is conducted in a safe and orderly manner to protect the welfare of Qualified Patients and the community.

- A. A ~~medical~~-cannabis commission is established. The commission shall consist of nine members. Appointments to the commission shall be made, and vacancies on the commission shall be filled, by council members, in accordance with the provisions of Sections 2.04.030 through 2.04.130. At least one commissioner shall be a member of a medical cannabis dispensary, one shall be a member of a collective that is not a dispensary, and one shall be a cultivator who is not primarily associated with a single dispensary and provides ~~medical~~-cannabis to more than one dispensary.
- B. The commission shall recommend to the City operational and safety standards for ~~Medical~~-Cannabis Collectives and Dispensaries, and shall consult with any individual, organization, affiliation, collective, cooperative or other entity which seeks to open a new ~~Medical~~-Cannabis Collective or dispensary in Berkeley or to relocate an existing ~~Medical~~-Cannabis Collective or dispensary. The commission shall advise the City as to whether the proposed ~~Medical~~-Cannabis Collective or dispensary has a strategy for compliance with the published safety and operational standards before the new ~~Medical~~-Cannabis Collective or dispensary commences lawful operation.
- C. The commission will monitor the compliance of ~~Medical~~-Cannabis Collectives and dispensaries in Berkeley for the purpose of correcting any violations of the safety and operational standards. ~~Medical~~-Cannabis Collectives or dispensaries found to be in willful or ongoing violation of the standards shall be deemed in violation of this Chapter and referred to the City for appropriate action.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

