

# *Measure Z Committee*

Regular Meeting

Thursday, January 15, 2009, 6:00 p.m.

Council Chambers, City Hall, One Frank H. Ogawa Plaza

## **AGENDA**

### *Members:*


Dale Gieringer	District 1	Keith Stephenson	District 7
Joseph E. Villatoro	District 2	Vacant	At Large
Richard Lee	District 3	Leslie Bonett	Mayor
James Anthony	District 4	Cathi Bartice	City Auditor
Vacant	District 5	Bill Uber	City Administrator
Vacant	District 6		

Available on-line at: <http://www.oaklandnet.com/measurez>

## **AGENDA**

- A. Roll Call and Determination of Quorum
- B. Open Forum / Public Comment
- C. Review of the Pending List
- D. Approval of the Draft Minutes from the Special Measure Z Committee meeting of October 23, 2008
- E. Reports for Discussion and Possible Action:
  - 1. Revised Proposal for the Establishment of a Fee Schedule for Measure Z Private Cannabis Clubs (PCC) and Guidelines for Private Cultivation Under Measure Z Lowest Law Enforcement Priority Policy
- F. Announcements
- G. Adjournment

Persons may speak on any item appearing on the agenda; however a Speaker Card must be filled out and given to a representative of the Measure Z Commission. Multiple agenda items cannot be listed on one speaker card. If a speaker signs up to speak on multiple items listed on the agenda, the Chairperson may rule that the speaker be given an appropriate allocation of time to address all issues at one time (cumulative) before the items are called. All speakers will be allotted 3 minutes or less – unless the Chairperson allots additional time.

 This meeting is wheelchair accessible. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meetings of the Measure Z Commission, please contact the Office of the City Clerk (510) 238-3612. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility. In compliance with Oakland's policy for people with chemical sensitivities, please refrain from wearing strongly scented products to events.

Questions or concerns regarding this agenda, or to review any agenda-related materials, please contact the Measure Z Commission at (510) 238-3301.

# ***Measure Z Committee***

**January 15, 2009, 6:00 p.m.**

## **Pending List and Proposed**

## **Items for Discussion**

### **Pending, No Specific Date**

1. Information on marijuana arrests and citations (D. Gieringer, rev. 2-21-08)
2. Establishment of guidelines for Measure Z club's to deal with the issue of fees to be paid by licensed Measure Z Clubs. (R. Lee / K. Stephenson) *rev. Aug 08*
3. Develop guidelines for future enforcement (D. Gieringer)
4. Draft a proposed Training Bulletin for OPD for Measure Z (modeled after the Medicinal Cannabis Training Bulletin) for the implementation of the Measure Z lowest law enforcement priority, including protocols for OFD/OPD interaction, re: encountering cultivation operations in the course of their duties (J. Anthony and K. Stephenson) *rev. Aug 08*
5. Invitation to local and national policy experts to submit draft local ordinances and draft statewide legalization programs (J. Anthony)
6. Recommend an Oakland policy position for transmittal to the State Legislature (J. Anthony)
7. Monitor, on an ongoing basis, "private, adult" marijuana offense arrests (J. Anthony)
8. A definition of "private" as it relates to cultivation in the law (R. Lee) *rev. Aug 08*
9. Annual Report from the Measure Z Committee to the Oakland City Council (D. Gieringer 7/20/06)
10. Data tables / Matrix of marijuana offenses and arrests and other crime trends from the OPD (J. Anthony 7/20/06)
11. Request to the Hemp Industries Association (HIA) to provide a speaker for a future meeting (R. Lee 3/15/07)
12. Review of Oakland compliance / non-compliance policies with the Drug Enforcement Agency (DEA) (R. Lee/D. Gieringer 9/20/07)
13. Discussion of "clear violations" of Measure Z (ex. People packaging personal use cannabis in their homes) as part of a dialog with OPD (invite public to share stories) (J. Anthony 12/20/07)

(Rev. 10/23/08)

Item:   C    
Measure Z  
January 15, 2009

**Measure Z Committee**

**Thursday, October 23, 2008, 6:00 p.m.**  
**Council Chambers, 3<sup>rd</sup> Floor, City Hall, One Frank H. Ogawa Plaza**

**Members:**

Dale Gieringer	District 1	Keith Stephenson	District 7
Joseph E. Villatoro	District 2	Franklin Rose	At Large
Richard Lee	District 3	Leslie Bonett	Mayor
James Anthony	District 4	Cathi Bartice	City Auditor
Vacant	District 5	Bill Uber	City Administrator
Vacant	District 6		

**MINUTES**

**A. Roll Call and determination of quorum**

*Members Present: J. Anthony, C. Bartice, L. Bonett, D. Gieringer, R. Lee, F. Rose, K. Stephenson, B. Uber, J. Villatoro*

*The Special meeting of October 23, 2008 was called to order at 6:02 p.m..*

*Ms. Bonett was noted as present at 6:04 p.m.*

**A-1 Review of the meeting calendar for November and December 2008 and Receive the Schedule for the 2009 Regular Meeting of Measure Z**

*All members present expect to be available for the November 20<sup>th</sup> meeting. Ms. Bartice and Mr. Gieringer advised they would be unavailable for the meeting on December 18<sup>th</sup>. Staff was asked to check with members again at the November meeting to ensure a quorum would be available for the December meeting.*

**B. Open Forum / Public Comment**

*Ms. M. Norris spoke.*

**C. Review of the Pending List**

*With the deletion of Item 3 – “Consider staggering Committee member terms of office” the Pending List was approved by consensus.*

*Mr. Anthony informed the Committee he had heard from others that OPD has made some marijuana busts at the Oakland-Alameda Coliseum during events there. Staff was asked*

to check with OPD and the Coliseum Joint Powers Authority (JPA) on their policy / policies.

**D. Approval of Draft Minutes**

The Minutes of the August 21, 2008 meeting were approved, motion by Mr. Villatoro, second by Mr. Lee, by consensus.

**E-1 Draft Language For A Proposal To The City Council Recommending “An Ordinance Amending Ordinance No. 12694 C.M.S., ‘Ordinance Establishing The Procedures Of The Community Oversight Committee Created By Measure Z, Entitled "Oakland Cannabis Regulation And Revenue Ordinance" (Measure Z) And Providing The Terms And Responsibilities Of The Committee Members” To (a) Amend the Definition of “Quorum”, (b) add a “Non-Active Member” category, (c) Amend Member 2-Year Terms to Stagger Appointment Dates to Odd/Even Years, and (d) Designate Members as “City Officers” for the Purpose of Advocating Change to Other Elected Officials**

**1-A City Attorney Comments on Proposed Amendment to Ordinance No. 12694 C.M.S.**

These items were discussed at the same time. Mr. Uber and Ms. Jackson, the assigned City Attorney, gave brief overviews of their respective reports. Mr. Lee stated that an “inactive” member would be “active” again (Section 2.c) by showing up for a meeting. Staff was directed to make that clear in the proposed ordinance amendment language. Mr. Uber noted that section 2.b should state that the number of active appointed members “meet or exceed six (6)”, in place of the seven (7) noted in Item E-1.

Mr. Uber, speaking to the issue of “City office” designation and the additional rights, responsibilities, and privileges that go with it, made a motion to delete Section 1.d from the proposed ordinance draft. The motion was seconded by Mr. Villatoro. Chairperson Anthony offer that “striking everything before ‘advocating’” in Section 1.d would remove the section on “City Officers” but retain the goal of being able to directly lobby on tax and regulation issues; Mr. Lee then made that a substitute motion. Mr. Uber’s original motion failed by a vote of 2:7 (Anthony, Bartice, Bonett, Gieringer, Lee, Rose, Stephenson voting no). The substitute motion was adopted by a vote of 7:2 (Uber, Villatoro voting no). Staff was directed to fix the statement of findings (i.e., Whereas’) clauses to comport with the Committee’s actions. Ms. Jackson asked if the Committee proposed preparing a report to go with the proposed draft ordinance. The Committee decided to “let the ordinance speak for itself.”

The proposed language (Sections 2.d and 2.e) to stagger the Committee members’ appointment terms was adopted by consensus.

Mr. Lee made a motion to send the draft ordinance, as amended, amending Ordinance No. 12694 C.M.S. to the City Administrator for forwarding to the City Council. The motion was seconded by Mr. Rose, and was approved by consensus.

**E-2 Proposal for the Establishment of Guidelines for Measure Z Clubs on the Issue of Fees to be Paid by Licensed Clubs**

Mr. Lee noted that the fee schedule was based on the one set by the City for Oakland's medicinal cannabis dispensaries. Ms. Bonett thought the amounts were too high for a private club owner to sustain their business. Mr. Lee stated the schedule was only to open the discussion. Mr. Gieringer offered that a "per member fee" might be better. Mr. Anthony compared the fee schedule process to how cafes in Amsterdam are regulated and controlled, where the Dutch have a standard café tax (a percent of revenues). However, Mr. Anthony noted that such a local tax would be problematic with established California law.

The proposed fee schedule was revised on the floor as follows:

**Fee Schedule for Measure Z Private Cannabis Clubs (PCC)**

The permit fees for Measure Z Clubs will be the same as Oakland medical marijuana dispensaries. The Fees will be based on the number of members in a club.

1.	<del>Dispensary PCC with four (4) to five hundred (500) fifty (50) qualified patients adults</del>	\$5,000
2.	<del>Dispensary PCC with five hundred and one (501) fifty-one (51) to one thousand (1000) hundred (100) qualified patients adults</del>	\$10,000
3.	<del>Dispensary PCC with one thousand hundred and one (1001) (101) to one thousand five hundred (1500) two hundred (200) qualified patients adults</del>	\$15,000
4.	<del>Dispensary PCC with one thousand five hundred and one (1501) two hundred one (201) or greater to four hundred (400) qualified patients adults</del>	<del>\$20,000</del> \$30,000

Ms. Bonett suggested a base fee plus a membership fee. Mr. Anthony stated such a structure might look too much like a revenue tax. Mr. Uber questioned how such a structure could be audited by the City. Mr. Lee thought the fees should be charged a year in advance, to weed out the less serious. Mr. Villatoro asked if said fee would be non-refundable. Mr. Lee said yes. Ms. Bartice opined that the club owners' building lease could be an issue.

The report was continued to the next meeting with the recommendation that it be re-drafted with a short report on the intent, issues, corresponding regulations, and propose a model (which includes a business license fee).

**E-3 Guidelines for Private Cultivation Under Measure Z Lowest Law Enforcement Priority Policy**

*Mr. Lee gave a brief overview and orally added an item 4. to set up a permit / tax stamp fee of \$1,000 per year for the lights and/or 10 x 10 square feet grow area, with a higher amount for commercial operations. Mr. Uber opined that a “commercial” designation was not appropriate as the term contravenes the notion of “private”. Mr. Gieringer agreed the term “commercial” was probably not appropriate. There was then a general discussion on cultivation, growing, and the zoning for farming and / or crops in Oakland.*

*Mr. Anthony framed the issues of area (size), indoor vs. outdoor, commercial vs. personal. Mr. Lee noted the same paradox as with medicinal cannabis – legal to dispense, but not legal to produce. Mr. Villatoro stated that if the Committee gets into the issue of “commercial growing,” it will be opening a “bigger box” before the Committee has dealt with the step by step processes needed to get there. He recommended dropping the issue of commercial growing so as not to confuse the Committee’s immediate goals. Mr. Gieringer seconded the motion. Mr. Villatoro also added, for future discussion, issues surrounding residential cultivation (home or apartment) by renters and how it could affect regulations already governing property owner rights.*

*The Committee continued the report to the next meeting and asked Mr. Lee to provide additional information based the evening’s discussion. Staff noted the revisions / additional information were due by November 14, 2008.*

*Ms. M. Norris spoke.*

**F. Announcements**

*Mr. Lee noted “The Wonders of Cannabis” would be at Golden Gate Park in Dan Francisco on Saturday and Sunday, October 25-26, 2008.*

**G. Adjournment**

*There being no further business, and upon the motion duly made, the Special Meeting of the Measure Z Committee adjourned at 7:41 p.m.*

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Staff to the Measure Z Committee

\_\_\_\_\_  
Date Adopted

Item:   D    
Measure Z  
January 15, 2009

## Fee Schedule for Measure Z Private Cannabis Clubs

The permit fees for Measure Z clubs will be the same as Oakland medical marijuana dispensaries. The fees will be based on the number of members in a club.

1. *Private Cannabis Club (PCC) with one (1) to one hundred (100) active registered adult members \$5,000*
2. *PCC with one hundred and one (101) to two hundred (200) active registered adult members \$10,000*
3. *PCC with two hundred and one (201) to five hundred (400) active registered adult members \$20,000*
4. *PCC with five hundred and one (401) to six hundred (600) active registered adult members \$30,000*

Each PCC will maintain records showing active registered members. An active registered member will be an adult who has visited the PCC at least once per calendar month. The PCC's will have to check state issued identification to verify that all members are adults.

### **Guidelines for Private Cultivation Under Measure Z Lowest Law Enforcement Priority Policy**

*NOTE: This document is a first draft and is designed to begin the discussion on how to most effectively regulate cannabis cultivation in Oakland. –Richard Lee.*

The Oakland Cannabis Regulation and Revenue Ordinance made private cultivation, sales, and possession of cannabis the lowest law enforcement priority by Oakland police. The following guidelines on private cultivation are designed to implement this policy with the least number of complaints being reported to the police.

#### **1. What is private cultivation?**

For the purposes of this ordinance, private cultivation is cultivation on private property and out of view of the public. This includes secluded backyards, residential houses and apartments, and commercial warehouses.

#### **2. Limit size of gardens / proper zoning**

In order to minimize complaints to the police gardens should be located in appropriately zoned areas. Residential property should be limited to 2000 watts of lighting or 100 square feet (10x10 feet). Due to the variation in plant sizes, plant numbers should not be used to determine garden size. Gardens larger than 2000 watts or 100 square feet should be located in commercially zoned areas and properties with adequate electrical and mechanical systems. Commercial size gardens should obey all Oakland business laws, including paying taxes and obeying regulations.

### **3. Odor abatement**

In order to minimize police involvement, a problem resolution policy should be implemented. When complaints of nuisance odors are received the offending party should be notified and given an opportunity to correct odor emissions. The use of proper odor scrubbers and carbon filters should be encouraged.

### **4. Oakland city fees**

In order to raise funds for Oakland services, such as more police, a cannabis cultivation fee will be collected from Oakland citizens who grow cannabis. Personal consumption size gardens (less than 2000 watts or less than 100 square feet of canopy) will pay \$100 per month or \$1000 per year per for each 1000 watt light or \$100 per month or \$1000 per year per 50 square feet of garden canopy. Low-income medical marijuana patients should be given an exemption. Dated tax stamps (stickers) will be issued to be affixed to lighting reflectors to ensure compliance.