

Measure Z Committee

Special Meeting

Thursday, February 26, 2009, 6:00 p.m.

Hearing Room 2, 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>

SPECIAL MEETING 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 January 15, 2009
- E. Reports for Discussion and Possible Action:
 - 1. Continued Discussion on as 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
 - 2. Briefing from the Vice Chair on Proposed State Legislation Assembly Bill 390 (Ammiano) to Legalize Cannabis
- 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

February 26, 2009, 6:00 p.m.

Pending List and Proposed

Items for Discussion

Pending, No Specific Date

1. Information on marijuana arrests and citations, including data tables / matrix of marijuana offenses and arrests and other crime trends from the OPD (D. Gieringer / J. Anthony, rev. 1-15-09)
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. Review of Oakland compliance / non-compliance policies with the Drug Enforcement Agency (DEA) (R. Lee/D. Gieringer 9/20/07)
11. 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. 1-15-09)

Measure Z Committee

Meeting Minutes

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

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

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		

MINUTES

A. Roll Call and determination of quorum

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

Members Excused: J. Anthony

The meeting of January 15, 2009 was called to order at 6:02 p.m..

B. Open Forum / Public Comment

The following individuals spoke: R. Raiche, L. Lindsey, C. Bonaudi, and M. Norris

C. Review of the Pending List

With the following changes, the Pending List was approved by consensus:

- *Items 1 (Information on marijuana arrests and citations) and 10 (Data tables / Matrix of marijuana offenses and arrests and other crime trends from the OPD) to be combined into a single Pending List item.*
- *Item 11 (Request the Hemp Industries Association (HIA) provide a speaker for a future meeting was deleted from the Pending List.*
- *It was noted that it was time for the "Annual Report from the Measure Z Committee to the Oakland City Council" (Item 9) to be prepared and scheduled.*

D. Approval of Draft Minutes

The Minutes of the October 23, 2008 meeting were approved by consensus, on a motion from Mr. Villatoro, second by Mr. Lee.

E-1 Discussion on a 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

Fee Schedule - Mr. Lee provided a review of his revisions to the report since it was presented at the October 23, 2008 Special Meeting of the Measure Z Committee. Mr. Uber noted that the numbers listed did not comport with what was discussed previously and some of the written numbers did not match the numeric figures, as noted in Item D, the draft Minutes from the October 23, 2008 meeting. The Committee added the word “annual” in front of “permit fees.” Mr. Lee replied that, upon further reflection, the revised numbers would be more realistic with the fees proposed:

The annual 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 four hundred (400) active registered adult members \$15,000
4. PCC with four hundred and one (401) to six hundred (600) active registered adult members \$30,000

Mr. Gieringer recommended a cost of \$100 per member. Mr. Lee noted that a “membership” fee was different from a “permit” fee. Mr. Lee was to come back with language to cover guest / visitor passes / one-time visit memberships. The changes were adopted by the Committee and the item was continued to a future meeting.

Private Cultivation - Mr. Gieringer went through the particulars of the “Guidelines for Private Cultivation Under Measure Z Lowest Law Enforcement Priority Policy” section. He questioned, in section 2, “Limit size of gardens / proper zoning”, what might constitute an “appropriately zoned” area, but otherwise thought the garden size / lamp wattages were reasonable. Mr. Gieringer stated section 3, “Odor abatement”, had no enforcement “teeth”. Under section 4, “Oakland city fees”, Mr. Gieringer thought the fees might be okay for commercial enterprises, but for personal use gardens, he believes it’s the growers’ own business and would be unenforceable. Mr. Lee feels it would be up to the Committee to convince people paying the fee was appropriate, with the “dated tax stamps (stickers)” as proof in case police are, for some reason, summoned to a property where cannabis is being grown. Mr. Gieringer didn’t think it could be done, stating that at some size-point, one could grow for personal use for free. Ms. Bartice opined that the discussion felt like people would be “paying for police protection” to grow for personal use. Mr. Lee said people may prefer a feeling of protection when growing cannabis for personal use.

Mr. Villatoro said he understood the Committee's role was to define "private garden" and that the Committee should stick to personal growing and not get into commercial cultivation. He also thought the cost of \$1,000 per year was too high. Mr. Gieringer and Mr. Lee said the Committee needed to look at all aspects of cultivation and to look at "commercial" as supplying the private clubs and to those who cannot grow their own for whatever reasons. Mr. Villatoro asked for the City Attorney's opinion. Ms. Mosk stated that the City's Measure Z Ordinance (12694 C.M.S.) – she also noted SB 420 – only speaks to "private". Therefore anything else would be outside the Committee's purview, including commercial cultivation. Mr. Gieringer re-stated that there should not be a fee for small garden, comparing them to people who home-brewed beer and wine; and that the Committee needed to establish a personal use floor. Mr. Lee said he could re-write section 4 and asked for suggestions. Ms. Bartice recommended a small annual fee of \$100/year. Mr. Lee suggested no fee below 1000 watts for indoor cultivation. Mr. Villatoro noted that now the Committee needs to define "garden". Mr. Gieringer then asked about gardens larger than 100 sq. ft. and above 2,000 watts – suggesting \$500 per light. The Committee then continued the item to a future meeting.

The following individuals spoke on this item: A. Soto, C. Binodi, J. Giandinoto, M. Norris.

F. Announcements

Mr. Lee Noted there would be a social hour at the Bulldog after the meeting.

G. Adjournment

There being no further business, and upon the motion duly made, the Measure Z Committee adjourned the meeting at 7:29 p.m.

Staff to the Measure Z Committee

Date Adopted

Item: D
Measure Z – Special Meeting
March 26, 2009

Fee Schedule for Measure Z Private Cannabis Clubs

The annual 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 four hundred (400) active registered adult members \$15,000*
4. *PCC with four 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.

From SF Weekly – “The Snitch”

Get Up, Stand Up: Ammiano Introduces Marijuana Legalization Bill to the Press

By Joe Eskenazi in [Breaking News, Government](#)

Monday, Feb. 23 2009 @ 11:21AM



Assemblyman Tom Ammiano's press conference this morning announcing his marijuana-legalization bill started punctually and stayed relentlessly on-point -- thereby denying a barb to every journalist present.

Ammiano and the assembled speakers at San Francisco's State Building also spoke calmly and methodically, at one point being drowned out by a floor-waxer. The famously funny lawmaker reined himself in, presenting "The Marijuana Control, regulation and education act (AB 390)" as a simple matter of fiscal common sense. If you believe Ammiano and his straitlaced panel, it is.

In a nutshell, here's what the bill would do: "Remove all penalties under California law for the cultivation, transportation, sale, purchase, possession, and use of marijuana, natural THC and paraphernalia by persons over the age of 21," "prohibit local and state law enforcement officials from enforcing federal marijuana laws (more on that later)" and establish a fee of \$50 an ounce on marijuana on top of whatever pot will cost in a legal future - which legalization advocates say is about half what it costs now. This tax rate figures at about a buck a joint.



Ammiano addresses the crowd

Betty Yee, the chairwoman of the Board of Equalization, called Ammiano's proposal "a responsible measure on how to work out the regulatory framework of the legalization of marijuana." Her board's research indicated \$1.3 billion in tax dollars could immediately head into the state's coffers from the fee on marijuana and the sales tax on medical pot. She figured the halving of marijuana's street price would cause a consumption increase of 40 percent, but the \$50 per ounce levy would cut use by 11 percent.

Steve Gutwillig, the state director of Drug Policy Alliance, noted that regulatory measures like Ammiano's bill can work: Teen smoking is way down, and he claims juveniles report it is easier to obtain marijuana than purchase smokes. "Marijuana arrests actually increased 18 percent in California in 2007 while all other arrests for controlled substances fell," said Gutwillig. "This costs the state a billion dollars a year and taxpayers are footing the bill. Meanwhile, black marketers are laughing all the way to the bank."

But the morning's most forceful speaker was Judge James P. Gray, who retired from his 25-year post on the Orange County Superior Court six weeks ago. With his gray suit, tasseled loafers, and conservative salt-and-pepper haircut, he looked like central casting's offering for "Republican candidate for higher office." Not surprisingly, Gray *did* run as a Republican for Congress against Bob Dornan and Loretta Sanchez and Senate vs. Bill Jones and Barbara Boxer. He now says he's "not a politician - and I have the votes to prove it."

"I served 25 years on the bench and I've seen the results of this attempted prohibition. It doesn't make marijuana less available, but it does clog the court system," said the judge.

"The stronger we get on marijuana, the softer we get with regard to all other prosecutions because we have only so many resources. And we at this moment, have thousands of people in state prison right this minute who did nothing but smoke marijuana."

Gray noted that anyone who tokes up while out on parole can immediately be sent right back to prison, at great cost to the taxpayers.

"You and I as adults can go home tonight and drink 10 martinis. It's not a healthy thing to do but it's not illegal. Someone who smokes marijuana and goes to bed risks jail," continued the judge. "I don't smoke marijuana and if you legalized it today and gave it away at every street corner I'm still not going to. But the most harmful thing about marijuana today is prison - and also the most expensive. I take President Obama at his word - he said let's look at what's working and what is not, and jettison those programs that are not working."

Obama also wrote in his autobiography that he did "a little blow" and Ammiano is hopeful the new president will look upon this issue differently than his predecessor (it warrants mentioning that those fighting against torture and rendition also hoped that - and were disappointed).



Judge James Gray notes
that quaffing 10 martinis
is perfectly legal

Ammiano told *SF Weekly* that he doesn't expect his bill to pass "overnight," but doesn't see it as merely a "placeholder." As far as superseding federal law, he pointed to a similar bill recently introduced in Congress by Rep. Barney Frank; hopefully the law of the land will change. If not, Ammano hoped to exploit "fuzziness" regarding state and federal laws and the low priority this state has given to busting marijuana users entitled by Proposition 215. He predicted that, in these dire economic times, "support will fall all over" for his bill.

Perhaps, perhaps not. But this much is certain: If Ammiano pulls this off, there's a place for him reserved on the Mount Rushmore of Pot Gods, right between Cheech, Chong, and Bob Marley.

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