

MINUTES OF THE SPECIAL MEETING OF THE MONTCLAIR
CITY COUNCIL HELD ON THURSDAY, MAY 30, 2019, AT
6:00 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Dutrey called the meeting to order at 6:00 p.m.

II. ROLL CALL

Present: Mayor Dutrey; Mayor Pro Tem Raft; Council Members Ruh and Johnson;
City Manager Starr; Finance Director Parker; Public Works Director/City
Engineer Castillo; Senior Management Analyst Fuentes; City Clerk Phillips

Absent: Council Member Martinez (excused)

III. PUBLIC COMMENT

Mayor Dutrey stated comments related to this Workshop would be held until after the presentation.

IV. COUNCIL WORKSHOP

A. Consider Receiving an Executive Report on the City's Response to Proposition 64 and Potential Regulations on Commercial Cannabis Activity in the City of Montclair

Consider Providing Direction to City Staff on Any Future Consideration Regarding the Medicinal and Adult-Use Cannabis Regulation and Safety Law for the City of Montclair (MAUCRSL)

City Manager Starr reviewed the Proposition 64 Compliance Program that was presented at the May 9, 2019 Council Workshop in conjunction with the showing of a PowerPoint presentation.

He noted significant changes made in the political environment since the last presentation as follows:

- **AB 1356 (Ting)** failed in the state assembly. The author, **Assembly Member Ting**, placed the bill in the inactive file; however, that does not mean it is not dead.

Council Member Ruh stated that the chances of AB 1356 passing this legislative session are slight.

- A Notice of Intent to circulate the *Montclair Freedom of Choice Cannabis Initiative* petition was received by the City Clerk earlier that day by a representative of **Orbis Capital Consultants**, a Los Angeles-based marketing firm representing Montclair resident **Cody Lowe**. The petition's purpose is to amend the Montclair Municipal Code to implement the California State Legislature's recently enacted **Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)** within the City.

Council Member Johnson asked Code Enforcement Supervisor Gabe Fondario for his insight on why he believes the City should allow and regulate the sale of commercial cannabis.

Mayor Dutrey left the meeting at 6:57 p.m.

Code Enforcement Supervisor Fondario discussed the difficulty in shutting down illegal commercial cannabis activity, noting the ineffectiveness of the City's previous and current processes. He stated that without local regulation, these illegal businesses have been running amok throughout this community. He described the hazardous conditions and activities taking place at the illegal dispensaries such as the sale of tainted products, the possession of firearms, the consumption of cannabis in parking lots, and the employ of illegally armed

security guards. He expressed his personal opposition to legalized commercial cannabis, but admitted that from an enforcement perspective, there is a necessity for regulations, noting that legal operators would cooperate with the City to help keep the illegal operators out.

Mayor Dutrey returned to the meeting at 6:59 p.m.

Council Member Johnson thanked Code Enforcement Supervisor Fondario for his insight.

Council Member Ruh argued that the City could simply impose non-compliance business license fines already in place in order to deter the dispensaries, just like any other illegal business.

Mayor Pro Tem Raft thanked Code Enforcement Supervisor Fondario and commented that, as Chair of the Code Enforcement Committee, she has witnessed numerous of code violations resulting in unsafe conditions at these locations and is amazed that someone has not been seriously injured yet.

Mayor Dutrey requested those in the audience wishing to speak to provide their comments at this time.

Ms. Rose Delgado, a resident of 10 years, stated that as a nurse she has distributed and witnessed cannabis help people first-hand. **Ms. Delgado** stated that commercial cannabis should be legalized because CBD and THC are no worse than alcohol. She believes the City's resources should be designated to activities such as fighting crime.

Mr. Dave Fritchel, 10154 Santa Anita Avenue, Montclair, commended City Manager Starr and staff for creating the Proposition 64 Compliance Program. He expressed his hope that the City Council would adopt the ordinances drafted by staff.

Ms. Robin Watson-Jones, 4361 Mission Boulevard, Montclair, expressed her concern regarding the City's proposal to allow the sale of commercial cannabis in areas near the mobile home park community in which she resides. She stated her concerns for the well-being of children in her community, noting she believes that, like tobacco and alcohol, marijuana will fall into minors' hands.

Ms. Deborah Carey, resident, stated that she is worried about the sale of commercial cannabis near the mobile home park where she lives. She stated her belief that the legalization of commercial cannabis dispensaries will not help regulate the industry.

Dr. James Lally, Lally Medical Group, 5050 San Bernardino Street, Montclair, thanked City Manager Starr and Staff for the presentation. He discussed his familiarity with the effects of medical cannabis and stated that he has been an advocate of it for many years. He expressed his concerns regarding the adult use of cannabis and would prefer the City approach medical cannabis and adult use cannabis as separate issues.

Mr. Bruce Culp, 9016 Sycamore Avenue, Montclair, read the title of an article from *The Los Angeles Times*: "Legal Cannabis Can Raise the Roof of Home Prices." He thanked City Manager Starr and Staff and complimented the City's proposed regulations.

Ms. Suzanne Taylor, Executive Director of **Augusta Communities**, 400 N Mountain Avenue #205, Upland, expressed her concerns about the proximity of the permissible use areas to **Villa Montclair Mobile Home Park (MPH)** and **Hacienda MHP**. She explained that although the **MHPs** are zoned for commercial use, the parks are in fact residential areas. She asked that the City reconsider the proximity of the permissible use areas surrounding the mobile home parks.

Mr. Lan Zou, business owner, **Ingredients by Nature**, discussed the clinical benefits of medical cannabis and stated his support for the legalization and regulation of commercial cannabis in Montclair.

Mr. Aaron Gillette, ACG Consulting, 455 Main Street, El Segundo, commended

City Manager Starr and confirmed that the City of Montclair's proposed license is one of the most comprehensive he has seen. He stated his only concern is that the license is heavily focused on defeating the black market in the community and not representative enough of the benefits that a legal regulated market can bring to the community.

Ms. Isabel Donjuan, 9778 Columbine Avenue, Montclair, declared her opposition to the legalization of commercial cannabis sales in Montclair.

Mayor Dutrey left the meeting at 8:16 p.m.

Mr. Devan Julian, Julian Consulting, business representative, commended City Manager Starr for his presentation. **Mr. Julian** stated that as a businessman he understands the appeal of the ballot initiative but he would prefer that the City Council adopt staff's proposed ordinances. He stated that he hopes to conduct business in the City.

Mayor Dutrey returned to the meeting at 8:19 p.m.

Mr. Kory Singh, United Food and Commercial Workers (UFCW), on behalf of **UFCW President Mark Ramos**, stated that **UFCW's** attorneys have reviewed the ordinances and have offered recommendations for improvements. He stated that **UFCW** would like to help craft the best possible ordinance that would positively impact the City, cannabis industry workers, and the community.

Council Member Ruh left the meeting at 8:24 p.m.

Mr. Chris Eoger, Iconic Farms shareholder, stated that he has worked for many public agencies and commended City Manager Starr for drafting such a comprehensive Proposition 64 Compliance Program. He stated that his company would love to do business with the City of Montclair.

Council Member Ruh returned to the meeting at 8:28 p.m.

Mr. Amos Young, Iconic Farms, expressed his gratitude toward Mayor Pro Tem Raft and her husband for their dedication of time and resources to his family when he was a child living here in Montclair. He commended City Manager Starr for his work on the Proposition 64 Compliance Program. He stated that, if given the opportunity, his company would ensure to protect the community by working closely with City staff.

Ms. Janet Spalding, 9827 Vernon Avenue, Montclair, stated that she feels it is unrealistic to believe that legalizing cannabis dispensaries will cease illegal operation. She is also concerned about the community's education of the Proposition 64 Compliance Program, should it become law.

Mr. Mario Sustratol, 10680 Silicon Avenue, Montclair, stated that as an owner of 3.1 acres of commercial property in Montclair, he believes that the legalization and regulation of commercial cannabis in the City would create an opportunity for businesses to operate at his location. He stated that he would be happy for an opportunity to partner with prospective businesses in the City.

Council Member Ruh stated that the new deadline for cities to adopt regulations and avoid subjection to the CEQA process is now July 1, 2021, noting that it gives the City more time to educate and receive input from the community. He stated that he attended the City of Pomona's town hall meeting the previous night, noting that Pomona has yet to adopt regulations, is actively educating its residents, and would only allow two dispensaries in the city. He stated he also he read an article in *The Los Angeles Times* that discussed the City of Los Angeles's challenges shutting down illegal cannabis dispensaries, despite the fact that Los Angeles currently permits commercial cannabis.

Council Member Ruh stated that AB 1356 was shelved today and will not be returning this legislative session. He stated that **Assembly Member Ting** noted that since the passage of Proposition 64, 76 percent of cities and 69 percent of counties have banned commercial cannabis in the state. According to **Assembly Member Ting**, if AB 1356 had passed, the licensed market would have \$3.6 billion in sales—less than half of the \$7.7 billion of total sales in the state, meaning it would only regulate half of the current black market.

Council Member Ruh expressed his concerns with the cannabis industry's cash-only restriction and its avid use of water, noting that the grow houses are very water-intensive and the region is still in a drought. He also feels 600 feet is too close to a school as is 100 feet to a residential area. He added that in December of 2018, the City of El Monte approved a grow house down the street from a school that resulted in lawsuits against the city.

Mayor Dutrey asked City Manager Starr if the petition be placed on the ballot if the City Council does not adopt an ordinance and if the petition receives a sufficient number of signatures

City Manager Starr stated he would need to defer to the City Attorney to answer that question.

Mayor Dutrey stated that he agrees with Council Member Ruh that the community should be educated more, but expressed his concern with time now with the looming petition. He stated that he would like to move forward and add the Proposition 64 Compliance Program to the June 17 Council Meeting agenda. He proposed the formation of a Cannabis Committee made up of two Council Members and staff. He would like the City Attorney to create a memorandum by next week discussing legal options and would like for the City Council to review the legal options in closed session.

Mayor Pro Tem Raft agreed with Mayor Dutrey, but noted that there were 9,000 letters sent out to the community inviting every single household in Montclair to attend the workshop while observing the size of the audience.

Council Member Johnson stated that although she agrees with Council Member Ruh, Montclair residents voted to approve regulated commercial cannabis.

Council Member Ruh stated that he would like the City Council to speak with the City Attorney before adding the Proposition 64 Compliance Program to the June 17th agenda.

Council Member Johnson stated that she would hope that staff address the issues brought up by residents before moving forward.

Mayor Pro Tem Raft asked City Manager Starr if the proposed ordinances were amendable.

City Manager Starr confirmed that they are, noting it is a draft and that staff is already working to address the issues brought forward by the Council and the public.

In response to Council Member Ruh's comments, City Manager Starr noted the following: California is no longer in a state of drought; the City of Pomona adopted its regulatory ordinance in April; and Pomona's regulations allow more than two retail licenses for different uses.

City Manager Starr stated that staff understands the sensitivity of the issue and noted that in 2017, the consulting firm **HdL** made a presentation to the City Council discussing the potential to regulate commercial cannabis, and the issue has been a topic of discussion since then.

Mayor Dutrey requested clarification from City Manager Starr whether there can be resolutions adopted to make changes to the regulations, even after the ordinance is adopted.

City Manager Starr concurred, noting that the ordinance provides that the City Council can make modifications to certain aspects by resolution.

Moved by Mayor Dutrey, seconded by Council Member Johnson, and carried unanimously 4-0 that the City Council direct staff to bring the Proposition 64 Compliance Program at a City Council meeting after consulting with the City Attorney.

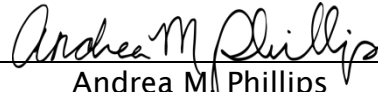
Council Member Ruh stated that he wants to delay the consideration of regulations in order to receive an adequate amount of public input, including holding town hall meetings on nights and weekends.

Mayor Dutrey asked City Manager Starr to seek advice from the City Attorney to determine if the City Council can hold an emergency closed session to discuss this matter at the June 3rd meeting. He also recommended that the City consider allowing commercial cannabis only along the Mission Corridor, noting that it is an area in need of economic development.

V. ADJOURNMENT

At 9:16 p.m., Mayor Dutrey adjourned the City Council.

Submitted for City Council approval,



Andrea M. Phillips
City Clerk