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OFFICE OF THE CITY CLERK
OAKLAND
2014 MAY -1 PM 1:40

AGENDA REPORT

TO: FRED GLOVER-BLACKWELL
CITY ADMINISTRATOR

FROM: Joe DeVries

SUBJECT: Cannabis Regulatory Commission Report **DATE:** April 10, 2014

City Administrator
Approval

Date
4-29-14

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council accept the 2013 Annual Report from the Cannabis Regulatory Commission (formerly known as the Measure Z Oversight Committee).

COST SUMMARY/IMPLICATIONS

This is an informational report with no fiscal impacts.

For questions regarding this report, please contact Joe DeVries at (510) 238-3083.

Respectfully submitted,

Joe DeVries
Assistant to the City Administrator

Item: _____
Public Safety Comte
May 13, 2014

To: Oakland City Council Public Safety Committee
From: Cannabis Regulatory Commission
Re: 2013 Annual Report
Date: April 2, 2014

Introduction

We are pleased to submit the Annual Report of the Cannabis Regulatory Commission (Commission) for the 2013 calendar year. Pursuant to City Council Ordinance No. 12694 C.M.S., the Commission is charged to “(a) advise the City Council of concerns, issues regarding the lowest law enforcement [priority] policy for private adult cannabis offenses; (b) make recommendations to the Council regarding policy implementations; and (c) report annually to the Council on the implementation of Measure Z.”

The Commission met 10 times in 2013. In January, nine seats were filled. During the year, two Commissioners vacated their seats: Charles Mintz (District 2) in February and Leslie Bonett (Mayor) in December. Jake Sassaman (District 7), Amanda Reiman (City Auditor), and Tyson Nagler (District 2) joined the Commission in April, July, and December, respectively. At the end of the year, the Commission had 10 members. Chairperson Leslie Bonett and Vice Chairperson Matt Hummel continued to serve their terms throughout the year.

During 2013, the Commission established four ad-hoc committees: the Cultivation Regulation Research Committee, the Public Education Committee, the “Measure Z Club” Outreach Committee, and the Annual Report Committee. The purposes of these committees are discussed in more detail below.

Primary Discussion and Action Items

1. Review OPD's Compliance with Measure Z

In May, Sgt. Kevin Reed presented the Commission with a report on arrest data for 2012 for cannabis-related offenses, and, in November, Sgt. Shavies spoke before the Commission to address follow-up inquiries on the 2012 data. Like last year, the Commission received a thorough report from OPD, which included demographic data and details from specific cases to better enable the Commission to evaluate the Department's compliance with Measure Z. The Commission was also informed that a complaint is required for OPD to spend resources enforcing cannabis laws.

After reviewing the report, the Commission remains concerned about the racial disparity in cannabis-related offenses. In 2012, 93% of those arrested or cited for possession of cannabis for sale and/or sales or transportation of cannabis (Health & Safety Code §§ 11359, 11360) were

persons of color. This is an issue the Commission brought to this Committee's attention in its report last year – in 2011, 94% of those arrested or cited for those offenses were persons of color. While Oakland has a diverse population, the Commission believes these numbers show a clear racial disparity in cannabis-related offenses and recommends the City Council take action to remedy this disparate enforcement. OPD's May 2013 memorandum to the Commission is attached to this report.

2. Track State Legislation

The Commission tracked legislation in the State Legislature that would improve the state's cannabis regulatory systems. As the legislative session progressed, the Commission voted to recommend the City support AB 473 (with the caveat that the Commission opposed the ABC as the regulating agency). The Commission approached the City's state lobbyist with the Commission's recommendation. Even though the bill failed to pass, the City's state lobbyist represented the City's support for the regulation to the legislature and was selected to serve on a committee to draft new legislation for the next session.

3. Discuss Business Owners' Concerns Regarding Cannabis Production in Oakland

A West Oakland citizen and business owner approached the Commission regarding her concerns with the negative effects of cannabis cultivation in her neighborhood. The Commission invited Arturo Sanchez and local business owners to its July meeting to discuss current regulations and whether anything could be done to address these concerns. Mr. Sanchez presented the city's current regulations and enforcement procedure. Mr. Sanchez also provided historical background on the city's attempts to regulate larger cultivation centers in recent years, which the city abandoned due to increased scrutiny from the U.S. Department of Justice.

The local business owner who approached the Commission presented her concerns. She reported a neighbor in West Oakland was growing cannabis in their warehouse, which was recently robbed. As the robber attempted to escape, s/he ran through the woman's backyard, leaving behind a handgun. She reported the warehouse was a large space, and she doubted her neighbors were in compliance with Oakland's regulations. Several other community members and city staffers spoke during this meeting, expressing their concerns and suggestions for resolving this issue.

The Commission determined the city's cultivation regulations should be revisited and created the Cultivation Regulation Research Committee to explore this issue further and present the Commission with suggestions to make to the City Council. The committee is still researching this, as well as regulations permitting on-site consumption at licensed facilities, and will present suggestions to the Commission in 2014. The Commission looks forward to sharing its suggestions for improving cannabis regulations with the City Council in the near future.

4. Improve Community Relations

The Commission identified a need to better inform citizens about Measure Z – since it passed almost a decade ago and many citizens are not aware of its existence – and wanted to better reach the Oakland community. To meet these needs, the Commission created two committees. The Public Education Committee was created to explore ways the Commission could better reach and inform the public of Measure Z and the Commission. The Commission also established the “Measure Z Club” Outreach Committee to better understand what regulations the community envisions for Oakland. This will help the Commission make educated decisions when preparing suggested regulations for the City in the future.

Additionally, the Commission redesigned its Web site (www.oaklandnet.com/measurez) so it would be more user-friendly and would match the design of the City’s site. Joe DeVries and his staff worked throughout the year to improve the Commission’s web presence and ensure all materials related to the Commission’s work are available online.

5. Continue Discussion of the Definition of Private

Members of the Commission continue to raise concerns regarding the legal interpretation of the term “private” as contained in the adopted Measure’s text. This question impacts Oakland’s lowest law enforcement priority policy. The Commission continues to disagree with the City Attorney’s interpretation of the definition of “private” in regards to Measure Z. In 2005, the City Attorney made recommendations to the City Council that were accepted, adopted, and passed in Resolution No. 79647 C.M.S., which defines “private” as referring only to a residential setting, specifically excluding places such as clubs and other commercial establishments. The intent of Measure Z was to remove cannabis sales from residential neighborhoods to lessen the impact of an activity that should be conducted only in commercial areas. Therefore, the current definition of private is hindering the Commission’s ability to properly oversee the implementation of Measure Z. The Commission continues to explore ways to resolve this.

Pending List

At the end of the year, the Commission's pending list was as follows:

1. Establishment of guidelines, regulations, and fees for Cannabis Clubs (Measure Z Clubs)
2. Report from the District Attorney- conviction versus arrest statistics for CA Health and Safety Code section 11357- misdemeanor arrests (L. Bonett October, 2012)
3. Extended Discussion regarding "direction" of the Cannabis Regulatory Commission
4. Tracking of ballot measures and/or passed legislation regarding cannabis reform in states outside of California.
5. A public education campaign regarding the private versus public use of cannabis. (July, 2012)
6. A discussion regarding the definition of "Private" in regard to cannabis offenses in the City of Oakland.

For Tracking Purposes

1. Election of Officers (April)
2. Annual Report to the City Council (finalize in November/December)* On tonight's agenda

Conclusion

The Commission remains committed to the regulation of adult cannabis use and looks forward to continuing its work with the City Council to advance the implementation of Measure Z, as approved by Oakland voters in 2004.

CITY OF OAKLAND

MEMORANDUM

To: Cannabis Regulatory Commission
From: Oakland Police Department
Date: 13May13

Subject: **Police Department Activities Related to Arrests for Criminal Marijuana Offenses for 2012**

In 2012, the Oakland Police Department arrested/cited 174 persons for possession of less than one ounce of marijuana (11357(b) HS). Only 3 individuals were arrested/cited for possession of more than an ounce of marijuana (11375(c) HS). The majority of the arrests and citations for Marijuana possession were in a public place and often are the result of specific complaints or investigations into other criminal activity.

According to the Homicide Division, there was at least one homicide in 2012 that involved Marijuana and or the Cultivation of Marijuana.

The Oakland Police Department continues to maintain a policy that the investigation, citation and arrest for private cannabis offenses are the lowest law enforcement priority.

Criminal Marijuana Arrest Statistics for Calendar Years 2005 – 2012:

ARREST TYPE	2005	2006	2007	2008	2009	2010	2011	2012
Possession of Marijuana for Sale - 11359 HS	377	311	508	618	571	517	275	181
Cultivation of Marijuana - 11358 HS	4	9	13	29	37	58	8	24
Sales/Transportation of Marijuana- 11360 HS	201	111	115	164	128	136	29	29

Item: E-1
Measure Z
May 13, 2013

City of Oakland Overall Crime Statistics:

In 2012, the City of Oakland experienced an overall 23% increase in Part One crimes.
See Attachment for more specific information on Crime Statistics.

Tony Jones
Lieutenant of Police