



Placentia City Council

AGENDA REPORT

TO: CITY COUNCIL

VIA: CITY ADMINISTRATOR

FROM: DEVELOPMENT SERVICES DIRECTOR

DATE: SEPTEMBER 19, 2006

SUBJECT: AN INTERIM URGENCY ORDINANCE OF THE CITY OF PLACENTIA, CALIFORNIA, AUTHORIZING THE EXTENSION OF INTERIM URGENCY ORDINANCE NO. 0-2006-03 WHICH IMPOSES A MORATORIUM ON THE LEGAL ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES WITHIN THE CITY OF PLACENTIA PURSUANT TO GOVERNMENT CODE SECTION 65858

FINANCIAL

IMPACT:

EXPENSE: \$ NONE

OFFSETTING REVENUE: \$ NONE

BUDGETED: NOT APPLICABLE

INTRODUCTION:

At the August 15, 2006 City Council meeting, the Council adopted Interim Urgency Ordinance No. O-2006-03, which established a temporary moratorium on the establishment and operation of medical marijuana dispensaries within the City for a period of 45 days. The Ordinance prohibited the establishment of medical marijuana dispensary uses during this interim period and required the City Council to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the Ordinance. Unless extended by ordinance of the City Council, as authorized by state law, the initial forty-five (45) day temporary moratorium period will automatically expire on September 29, 2006.

The proposed Ordinance will extend the moratorium for an additional ten (10) months and fifteen (15) days to allow City staff to study and recommend appropriate controls, and shall expire on August 13, 2007. The City will be able to use the proposed extension period to further study how to properly reduce or eliminate the threat to the public health, safety and welfare caused by such uses.

RECOMMENDATION:

That the City Council:

1. Hold a public hearing;
2. Approve the City Council report dated September 19, 2006, of measures taken to alleviate the condition which led to the initial adoption of the interim urgency ordinance; and
3. Read the title, introduce, and adopt an ordinance entitled: "AN ORDINANCE OF THE CITY OF PLACENTIA, CALIFORNIA, AUTHORIZING THE EXTENSION OF INTERIM URGENCY ORDINANCE NO. O-2006-03 WHICH IMPOSES A MORATORIUM ON THE LEGAL ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES WITHIN THE CITY OF PLACENTIA PURSUANT TO GOVERNMENT CODE SECTION 65858".

The Ordinance shall take effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council.

DISCUSSION:

Recently, City staff learned of a marijuana distribution business operating in the City. The business was located in a residential home and was operating without a business license. The Placentia Police Department investigated the business dealings occurring at the residence. During a search of the premises, police officers confiscated a large quantity of marijuana. Additionally, City staff recently received a separate inquiry to operate a medical marijuana dispensary within the City.

Several California cities that have marijuana dispensaries in their jurisdictions have experienced an increase in crime associated with the dispensaries. Such crimes range from the resale of medical marijuana to individuals who do not have physician recommendations for marijuana use to robberies of the dispensaries themselves. Moreover, marijuana has been distributed to persons without prescriptions in the cities of Tustin, San Marcos and San Diego.

In 2005, five cities were surveyed by the City of Concord regarding the secondary effects of medical marijuana dispensaries: Rocklin, Roseville, Oakland, Hayward, and Fairfax. All five cities identified the same or similar experiences. Those experiences included, but were not limited to: street dealers attempting to sell to patrons entering the dispensary; smoking marijuana in public areas; driving while under the influence; attempted burglaries of marijuana establishments; robberies of clients patronizing the dispensaries; adverse impacts on neighboring businesses; physicians writing prescriptions for any patron regardless of medical infirmity; nuisance behavior of patrons; and illegal drug sales from dispensaries. A copy of the City of Concord's report is enclosed for your review.

The City of Davis has researched secondary effects of medical marijuana dispensaries resulting in similar findings to those of the City of Concord. A copy of the Davis report is attached.

Of additional concern is that crime is not being consistently reported by dispensaries and users because they do not want to jeopardize the status of the dispensaries. Based on the experiences of other cities, and the recent events in the City dealing with an unlawful marijuana distribution business, City staff is concerned that marijuana dispensaries may have the significant negative secondary effects that adversely affect the neighborhoods in which these establishments may be located.

Existing City codes, including the Zoning Code, do not specifically address or regulate the establishment, location, or operation of medical marijuana dispensaries and thus these facilities should not be established or operated until the City Council makes a determination regarding the appropriate zone districts and regulations for such establishments.

To date, staff has reviewed the City's Zoning Code in an effort to identify potential sites for this type of use in commercial and manufacturing zones within the City. In addition, staff has been reviewing other conditions, which may be appropriate conditions or regulations for medical marijuana establishments, such as distance requirements from churches, schools, residential uses and public parks. To determine how to deal with the medical marijuana dispensaries and the potential negative effects on the public health, safety, and welfare, that could be caused by allowing a proliferation of unregulated marijuana establishments, City staff recommends that the Council adopt the interim urgency ordinance extending the moratorium, thereby allowing Staff to study the issue further.

Staff will then continue the work needed to complete the study of how to properly reduce or eliminate the threat to the public health, safety and welfare caused by such uses, and to evaluate preparation of a City Ordinance to address requests to establish and operate such uses within the City. However, that work has not yet been completed; therefore, staff is recommending that the City Council hold a public hearing and approve an extension of the Medical Marijuana Dispensary Interim Urgency Ordinance as authorized by state law, for an additional ten (10) months and fifteen (15) days.

Adoption of the Interim Urgency Ordinance extending the temporary moratorium on the establishment of medical marijuana dispensaries within the City will allow City staff to further study and discuss potential code amendments to the City's land use regulations that may be needed to reasonably allow the establishment and operation of medical marijuana dispensaries in the City and to reduce the potential for adverse secondary effects. Should City staff conclude its analysis and review of the issues surrounding the establishment of medical marijuana dispensaries in the City prior to August 13, 2007, the matter will be brought back before the City Council prior to that date.

The proposed Interim Urgency Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Title 14, California Code of Regulations, Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of the written report described above.

Submitted by:

Reviewed and approved:

Raynald F. Pascua
Director, Development Services

Robert C. Dominguez
City Administrator

Attachment: Interim Urgency Ordinance Extending the Moratorium
August 29, 2005 City of Concord Report re Secondary Impacts of Medical Marijuana
Dispensaries
City of Davis Staff Report re Secondary Impacts of Medical Marijuana Dispensaries
News Articles re Medical Marijuana Dispensaries
City Council Report of September 19, 2006