

**MINUTES**

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**1. CALL TO ORDER**

Chair Diana Stewart called the meeting to order at 7:00 p.m. Members present: Diana Stewart, Dan Frasier, Kyle Brown, Graham Matthews and Tom McKnight. Staff present: Director Richard Tippet, Senior Planner Carson Anderson, County Counsel Joe Larmour and Clerk Ruth Hanover. Others present: Jeff Dolf, Agricultural Commissioner and Kelly Sheen, GIS Specialist.

Commissioner McKnight requested to address the Commission and public prior to public comment.

Commissioner McKnight advised he has been made aware there is public concern he may have a conflict in the medical marijuana discussions. He does not believe he does, so will not recuse himself from the discussion; however, he advised that effective tonight he resigns as the Planning Commissioner for District 4.

Commissioner McKnight absent 7:12 p.m.

**2. PUBLIC COMMENT**

*Members of the public may address the Planning Commission concerning matters within their jurisdiction, which are not listed on the agenda and to request that a matter be agendaized for a future meeting. No action may be taken on these matters at this meeting.*

Chair Stewart opened public comment to items previously addressed, advising each speaker will be limited to 2 minutes to make their comments. No questions will be answered, but if possible, any questions may be addressed at a later time.

Comments received from Andrew Franklin, Eric Anderson, Duncan McIntosh, Roger Chatterton, Mike Frasier, Patrick Hahn, Joanne Mathias, Mike McHugh, Dee Potter, Zach Hay, Richard Seele, James Osborn, Tom Ballanco, Carol Fall, Tom Dinsmore, Jim James, John Brower, Liz McIntosh, Hal Mathias, Clarence Rose, John Peters, Jose Acosta, Pat Frost, Mark Schumaker, Wyatt Woodridge, Lyn Scott, and Olivia (last name not given).

No further comments being received; Chair closes public comment period.

Chair Stewart announced we have a guest tonight.

Senior Planner Anderson introduced Jeff Dolf, Agricultural Commissioner. He explained Mr. Dolf is the Humboldt County Agriculture Commissioner and Trinity County has a M.O.U. with Humboldt County for his services. He said Mr. Dolf is here tonight to talk about the permitting process and a draft framework that he came up with in December to share with the Board of Supervisors. He referred the Commission to Exhibit A of the staff report which is the draft outline of the permitting process.

Mr. Dolf advised as the Agricultural Commissioner his role is here is not to speak to the planning decisions that the Planning Commission and Board of Supervisors of Trinity County are going to make; the role of his office is to develop a licensing and certification program for medical cannabis. He said he has provided the Board, and now the Planning Commission with an outline of a such a program. That program would be comprised of a grower coming into the Agricultural Commissioner's office, registering, site specific information, name, address, size of the cultivation area; we are going to ask the grower to develop a cultivation operations plan that would cover some of the production practices that they would be utilizing. He said there is an interest in Humboldt County for offering the growers an organic equivalent program, which is something that is also contained in the state legislation as the organic principles. He said the Humboldt County Ordinance also has what they are calling

Artisanal Appellation Branding for medical cannabis, defined as being grown with natural light, grown in less than 3,000 sq. ft. using the organic principals, and the producer has to live on the site where cannabis is produced. He said his office is developing and will implement that pilot program at the appropriate time.

Dolf said the other aspect of this, that is very important, is demonstrating compliance with all of the relevant laws and regulations, including State Water Board permits, streambed alteration permits, and Fish and Wildlife if that is an issue for the grower, and any of the relevant permits that might apply to that growing operation. Once we have the registration and we have the demonstration of compliance with all these requirements, then next thing we would need to do is an inspection. State law requires there be an annual inspection so his office would be tasked with going out and doing an inspection of those operations to verify compliance. He said obviously with the number of growers in each of our counties it is a huge task, staffing is an issue. He said he has been very clear with his Board in Humboldt, and it has been expressed to Trinity County's Board, that if we are to fulfill this role we will need staffing. Additionally, the California Department of Food and Agriculture is responsible for developing and implementing oversight programs, so he will also be representing the State interests locally, as there is a provision for the California Department of Food and Agriculture to contract with local Agricultural Commissioner's for providing local service for those programs.

Commissioner Brown asked if the State is ready to start the process. Dolf responded the State is hoping to meet the January 1, 2018 deadline; they are working on an E.I.R. for the program at the same time they working on developing the regulations that will govern this program. They are hiring a Branch Chief that will be responsible for the medical cannabis program with the Department of Food and Agriculture, and they are hiring a consultant that will be advising them on developing the regulations and the E.I.R. He said the regulations will need to be consistent and compatible with the E.I. R.

Commissioner Brown asked if there will be some state funding to local Agricultural Commissioners for staff support. Dolf responded that he would anticipate that, as it would be a mandate on us, and typically for our programs that's through the mechanism of cooperative agreement, so you will generally have no net county costs, or no local costs associated with doing the program.

Chair Stewart stated the specifications listed in the draft licensing and certification program regarding setbacks is probably different what the Commission comes up with, and asked how he would be handling that. Dolf responded we are learning in this process, beginnings are difficult and they are hard, so at the onset acknowledge you will make changes to the rules and regulations as you learn through this process.

Commissioner Brown asked Mr. Dolf if he knows what the fee schedule will be for permitting. Dolf responded that would be time and mileage for inspector time, typically through their program they do flat cost recovery, that would be one flat fee and then there would be a set mileage fee. He said we are only allowed to cover costs.

Senior Planner Anderson asked Dolf how he sees the Agricultural Commissioner's process, our process, and the Regional Water Quality Control Board process coordinating. Dolf responded undoubtedly there will be growing pains but he thinks ultimately the goal is agencies will have data bases and they can share information, so we are all going to be checking whether or not producers are compliant across the range of programs and state requirements that they need to be.

Dolf said he sees the Agricultural Commissioner's Office and Planning working very closely together on this. He said maybe there is an interest in Planning staff going out with Agricultural Commissioner staff and doing these together because we have a shared interest in different aspects of the development of these local regulations.

Dolf said one thing he wanted to speak to, based on some of the public comments he's heard, is the proof of origin that the state regulation allows counties to use, to incentivize compliance with a regulatory program. He said taking the long view of this, when the rest of the State of California comes on line, including the central valley, where they have water and adequate sunlight, all the resources to produce medical cannabis, they will have an influence on the market and what will happen in the long term is that growers in the rural areas will need to participate in the programs that are offered locally because they will need the branding in order to compete. They will want the branding in order to differentiate their product from the rest of the cannabis that is out there. He

said, as one of the speakers had noted, cannabis in Northern California has a reputation for being very high quality, and that's the branding aspect, that is one long term incentive for people to come into the program, and hopefully, as everybody agrees, the bad actors won't be able to compete. They either come into compliance or they will leave our communities and we will see those negative impacts that we have all suffered go away over time. It's not going to happen overnight, it's the long term view of building in a branding to the County's program to incentivize them to come into compliance with the local program. He said we can verify that they are doing everything correctly.

3. **MINUTES** – None.

**OLD BUSINESS**

4. **WORKSHOP RE UPDATE TO MEDICAL MARIJUANA ORDINANCE**

Wrap-up Workshop - Preliminary Recommendations to the Board of Supervisors re Update to Medical Marijuana Ordinance

Chair Stewart announced tonight we will be discussing on Item 7, Fencing; and three items we wanted more information on, that would be Item 5 - Zone District/General Plan Designation Areas, Item 6 - Appropriate Setback Requirements, and Item 8 - Requiring a Permitted Residence.

Senior Planner Anderson gave an overview of what is contained in the staff report.

Director Tippett advised that black plastic that some people are using for fencing is not permitted under the current personal grow ordinance and staff has been taking code enforcement action on those.

Chair directed discussion of Item 7 separately and doing the items the Planning Commission requested more information on together at the same time.

Chair Stewart opened public comment for Item 7 only, Appropriate Fencing/Enclosure Standards for Commercial Grows.

Comments received from Duane Sceper, Tammy Frasier, Jose Acosta, John Peters and James Noel.

Chair Stewart closed public comment on this item.

Discussion regarding types of fencing. Director Tippett stated staff could provide a list of the acceptable fencing.

Consensus was reached on Item 7, to require installation of appropriate fencing on all commercial grows, with the material to be determined at a later date. (4-0).

Chair stated we are going to combine Items 5, Permissible Zone/General Plan Designation Districts for Commercial MM; 6, Appropriate Setback Requirements for MM Uses; and 8, Requiring a Permitted Residence on all MM Cultivation Properties. She stated we already decided we want permitted residences on property where medical marijuana is going to be grown, and we are looking tonight at how to handle contiguous properties.

Planner Anderson reviewed the different General Plan Designations and Zoning around the county. He said we can talk about the overlay zoning concept but he thinks that is something that is going to be refined as part of the final ordinance. The basic idea is we would create a zone overlay which would basically be keeping the zoning intact, but it would create special development requirements that would pertain to commercial cannabis.

Chair opened public comment on Item 5.

Comments received from Duane Sceper, Tom Ballanco, John Brower, Richard Seele, Mike McHugh, Jose Acosta, Jim James, Roger Chatterton, Duncan McIntosh, Liz McIntosh, Dan Dickerson, Eleanor Scott, Lyn Scott

and Clyde Crosswhite.

Chair Stewart closed public comment period.

Chair moved on to Item 5c.

Planner Anderson advised he has outlined on Page 5 some preliminary permitting approaches the Commission could take. He said Humboldt County has three levels of use permitting; a Zoning Clearance Certificate, a Special Permit, and then requiring a full blown Conditional Use Permit depending on the size of the commercial cannabis activities that are proposed. Anderson stated that he and Director Tippet have discussed adapting the Home Occupation/Cottage Industry section of the zoning code as a rough screening framework for permitting purposes, maybe creating another tier for the non-discretionary things that clearly meet the Regional Water Quality Control Board permitting standards, that will meet the draft standards that the Agricultural Commissioner has developed.

Discussion regarding permitting approaches that can be taken, and use of the Home Occupation/Cottage Industry ordinance for framework.

Discussion regarding ministerial permits. County Counsel to research the legality of ministerial permits.

Discussion regarding use permits.

Planner Anderson stated we are also piggybacking on what the Regional Water Quality Control Board will be doing in terms of wastewater discharge permitting, they have a very robust permitting review checklist of things that have to be done in order to get the discharge permit and that is required for anything that involves 2,000 sq. ft. of cultivation area. Combined with that, what the Agricultural Commissioner will be doing, these things Segway providing screening tools that help us. He said we are still working through the details for the permitting process and those are going to get refined over time, but we wanted to give the Commission a basic idea of what could be done. We could use the basic bones of it to create a framework for dealing with commercial cannabis. He said he wouldn't look at the language in it right now too specifically, but look at the overall use permit framework that it creates.

Further discussion regarding Ministerial Permits. Planner Anderson advised that category was included for projects that clearly have no discernable impacts.

Consensus was reached that the Commission would prefer the Director's Use Permit & Conditional Use Permit process for growing in Rural Residential. (4-0)

Chair asked if we have consensus re determining a Director's Use Permit for properties 30-acres and over, and a Conditional Use Permit for properties for properties under 30-acres.

Commissioner Matthews responded it is a reasonable start.

Commissioner Frasier stated he wanted to take time and do it right

Director Tippet stated the Board of Supervisors is looking for interim policy for the 2016 grow season. He said there is a specific time frame for a joint Board of Supervisors and Planning Commission meeting.

Commissioner Frasier responded the 2016 grow season is not in effect for 2018. We are going in circles.

Counsel Larmour advised that the Board of Supervisors wants us to do.

Commissioner Brown responded to tell the Board the Commission is not in favor of ministerial permits and that we need more time regarding Director's Use Permits and Conditional Use Permits, that we are not ready to set threshold.

Chair directed the Commission go to setbacks then come back to it.

Chair went on to **Item 6 – Appropriate Setback Requirements for MM Uses**. She said we have the distance separation from sensitive receptors, and asked if there was a GIS presentation.

Planner Anderson responded in the affirmative. He said the Commission had a question at the last meeting about various setback scenarios and wanted to have them visualized for easier review. These included 100' setbacks in one scenario with different acreage; 100' setbacks from the road; and 500' from other property lines was another scenario; 500' setbacks all around was another scenario; and a couple of cases where federal lands were adjoining and how that might work out.

Kelly Sheen, GIS Manager for Resource Conservation District, showed the various parcel sizes and setbacks scenarios.

Discussion regarding using percentages of property for setbacks.

County Counsel advised this is interim so if you were to set something on a percentage basis it would take a little more vetting, and may be more appropriate for your permanent ordinance. So here it may be that you want to set your minimum setbacks, as you see them, to give the Board a recommendation, and then work towards your permanent ordinance and take the time and effort to explore the percentage basis.

Director Tippett advised the next meeting is joint workshop with the Board. We will discuss this again. We are just hitting targets right now so we have a discussion piece with the Board of Supervisors.

Impasse was reached regarding setting a 500' setback in Rural Residential.

Discussion regarding setbacks in Agriculture. Commissioner Brown suggested 250'-300' to allow a 10-acre parcel to grow a Tier 1 grow.

Chair moved on to **Item 8, Requiring a Permitted Residence on all MM Cultivation Properties**.

Consensus was reached to require a permitted dwelling on contiguous property, with the same owner, where commercial MM grow activity is occurring. (4-0).

There was further consensus for the requirement that there be a permitted dwelling in nearby proximity to the property, owned by the same property owner, where commercial MM grow activity is occurring. (3-1:Stewart-No)

The chair went back to Item 5.

After discussion, consensus was reached regarding setbacks, that at 500' or above they get a Director's Use Permit, anything 500' to 100' would require a Conditional Use Permit. (4-0)

Planner Anderson advised there is a remaining concern about whether the percent of parcel size can be a criterion that we will have to look at later.

**NEW BUSINESS** – None.

## **5. MATTERS FROM THE COMMISSION**

Discussion re proposed joint meeting with the Board of Supervisors on Medical Marijuana issue.

Discussion re presentation of water issues by 5Cs and comments to Board of Supervisors. Planner Anderson stated staff was thinking we might be able to bring it to the Commission in April and then it goes to the Board

after recommendations from the Planning Commission and 5Cs.

6. **MATTERS FROM STAFF** - None

7. **ADJOURN**

Chair adjourned the meeting at 10:27 p.m.