

**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, DECEMBER 21, 2010**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, December 21, 2010, commencing at 7:00 a.m.

Present: Council Member Hansen, Council Member Katzakian, Council Member Nakanishi, and Mayor Johnson

Absent: Mayor Pro Tempore Mounce

Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Topic(s)

B-1 Review and Discuss Options for Regulating Medical Marijuana in the City of Lodi (CA)

City Manager Bartlam briefly introduced the subject matter of regulating medical marijuana dispensaries.

Deputy City Attorney Magdich provided a PowerPoint presentation regarding the regulation of medical marijuana dispensaries in the City of Lodi. Specific topics of discussion included the Lodi Municipal Code, federal and state laws governing marijuana, the Federal Controlled Substance Act of 1970, Proposition 215, Senate Bill 420, Compassionate Use Act (CUP), limitations of CUP, purpose of SB 420, who is a qualified patient, who is a primary caregiver, federal and state court case application, California Attorney General's guidance on marijuana grown for medical use, what are marijuana dispensaries, dispensaries under California, considerations for operation of dispensaries, ban on dispensaries and legal basis for the same, Government Code Section 37100, allowing dispensaries based on zoning and permitting, survey results, and proposed time frame for action by the Council.

In response to Mayor Johnson, Ms. Magdich stated dispensaries do not fit into the caregiver category because a caregiver must be doing more than just providing the product.

In response to Council Member Hansen, City Attorney Schwabauer stated the U.S. Supreme Court did not strike down the California law because it does not conflict with federal law for preemption purposes as California does not legalize marijuana but rather decriminalizes marijuana for those that are qualified patients. Ms. Magdich stated there is some uncertainty that remains in the law and at some point the courts will need to weigh in and provide clarity.

In response to Mayor Johnson, Ms. Magdich stated a definition of the term collective is found on page 8 of the Attorney General's guidelines.

In response to Council Member Hansen, Ms. Magdich stated a dispensary cannot be opened under state and federal law because it is illegal under federal law but it can be opened under state law alone if it meets the requirements of caregiver and collaborative.

In response to Council Member Katzakian, Ms. Magdich stated being a qualified collective, cooperative, or caregiver in an industrial zone is fine if they are dispensing to qualified patients. There are guidelines for collectives and cooperatives, and she stated cooperatives are more formally organized and have legal filing requirements and the Highway 99 facility was an example of a collective operation.

In response to Council Member Hansen, Mr. Schwabauer stated there are no prior restraint constitutional issues associated with medical marijuana as there are with free speech. Ms. Magdich stated there are approximately 11,000 identification cards issued statewide by counties and most people are showing recommendations from physicians to obtain the medical marijuana. She stated generally the recommendation is on a single sheet of paper indicating the patient name, reasons for the need, date, and signature of the physician.

In response to Mayor Johnson, Ms. Magdich stated the recommendation can be verbal but that will not help with possession in the event an individual is pulled over in a traffic stop. Further, she stated retail sale is outside of the cooperative and collective definitions.

In response to Council Member Hansen, Ms. Magdich stated Stockton passed a tax through a simple majority in anticipation of Proposition 26 passing. Mr. Schwabauer stated non-profit dispensaries, similar to other non-profit organizations, can make a profit in order to run the operation, pay salaries, and make improvements to facilities. He further stated cooperatives in Sacramento are taxed with a local sales tax through a public vote whereby the cooperative pays straight sales tax and in addition pays the local tax.

In response to Mayor Johnson, Interim Police Chief Benincasa stated historically when a dispensary has gone into a community the crime rates have gone up based on a totality of circumstance including the area and access.

In response to Council Member Hansen, Ms. Magdich stated some cities are silent and take the position that, because marijuana is illegal under federal law, there is nothing further they need to do. She stated she is not aware of any city that has addressed the issue of medical marijuana dispensaries through a ballot measure unless it is related to a sales tax measure.

In response to Myrna Wetzell, Robin Rushing stated recommendations have to be renewed every year.

Robin Rushing spoke in support of medical marijuana dispensaries in the City based on serving a regional need and economic benefits to the City.

Brian Wendell spoke in support of medical marijuana dispensaries in the City based on his experience with working at a dispensary in Sacramento, service to patients in the area, and economic benefits to the City.

The City Council provided general direction to ban dispensaries in the City.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 8:15 a.m.

ATTEST:

Randi Johl  
City Clerk