



Agenda Item No.: 57.

DEPARTMENT: PLANNING
DIRECTOR: FLINN FAGG

☐ Consent ☒ Discussion

SUBJECT: Report for possible action regarding the development of regulations by the Nevada Department of Health and Human Services for the licensing of Medical Marijuana Establishments - All Wards

Fiscal Impact:

☐

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

SB 374 governing medical marijuana was signed into law by Governor Sandoval on June 12, 2013. This bill provides for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufactured edible marijuana products or marijuana-infused products for sale to persons authorized to engage in the medical use of marijuana. The Department of Health and Human Services of the State of Nevada was charged with developing regulations and accepting applications for certification of facilities. The Council will receive a report on the status of state regulations, the medical marijuana program and direct staff on the development of local regulations on the establishment of such facilities within the city.

RECOMMENDATION:

Receive report and direct staff on the development of local regulations on the establishment of such facilities within the City.

BACKUP DOCUMENTATION:

Submitted at Meeting PowerPoint Presentation by Staff and Opposition Statements by Councilman Anthony

Motion made by RICKI Y. BARLOW to Approve direction to staff to do further research and put together a program for the Council's consideration

Passed For: 5; Against: 2; Abstain: 0; Did Not Vote: 0; Excused: 0

BOB COFFIN, RICKI Y. BARLOW, CAROLYN G. GOODMAN, STEVEN D. ROSS, BOB BEERS; (Against-LOIS TARKANIAN, STAVROS S. ANTHONY); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

FLINN FAGG, Planning Director, and KAREN DUDDLESTEN, Business Licensing Manager, were present. MS. DUDDLESTEN presented detailed PowerPoint slides that were submitted as backup to discuss the framework for allowing marijuana for medical use in the City in response to the approval of Nevada Senate Bill (SB) 374, authorizing dispensaries, laboratories and cultivation and production facilities.

CITY COUNCIL MEETING OF: FEBRUARY 5, 2014

MS. DUDDLESTEN, CHIEF DEPUTY CITY ATTORNEY VAL STEED and MAYOR GOODMAN discussed whether medical marijuana is considered a felony under the Controlled Substances Act - Schedule 1. COUNCILMAN COFFIN asserted that violation of this Act is a felony.

MS. DUDDLESTEN noted the current moratorium expires 3/17/2014; therefore, staff is seeking direction on whether or not to develop a medical marijuana program, or extend the moratorium.

MAYOR GOODMAN asked if an extended moratorium would have to include a timeline. MS. DUDDLESTEN indicated that staff needs to know if the Council would like staff to have a program in place before or after the state develops its regulations.

MAYOR GOODMAN asked if supporting extension of a moratorium would preclude future rights to the ten establishments. MS. DUDDLESTEN replied that the state needs to know if the City wants the right to license ten establishments. If not, Clark County may absorb those into its pool of allowable establishments. MAYOR GOODMAN then asked how the City's right could be protected and still extend the moratorium. MR. FAGG indicated that SB 374 allows a total of ten in Clark County, and when the state opens the cycle and the certificates are issued, there is no way to guarantee ten in the City if the City does not express interest, unless the state allows more establishments. So there is nothing in state law that guarantees those ten dispensaries. SENATOR RICHARD SEGERBLOM, who crafted SB 347, commented that if the moratorium is extended, the City could be in danger of losing the ten establishments to the County.

COUNCILMAN ROSS emphasized that he would prefer that the City of Las Vegas and Clark County work together to develop a program and a plan to work out all the details of this issue, rather than wait for the state, because local governments need to address their business. He noted that the City has always taken a leadership role, and it needs to do so in this matter as well.

To COUNCILMAN ROSS, MS. DUDDLESTEN indicated that the timeframe to develop a plan is very short. Staff is participating regularly with state and local governments, doing research and will continue to work to bring something back to the Council as quickly as possible. She conceded that there are upcoming challenges, but felt a plan could be presented to the Council within a reasonable timeframe. She and COUNCILMAN ROSS discussed a possible deadline of May, 2014.

CITY MANAGER ELIZABETH FRETWELL assured the Council that staff will develop a program based on the presentations, if directed to do so, but that does not necessarily mean that more time is necessary. She clarified that this item is really about whether the Council wants staff to develop a program or not, and it might have to be placed on hold until the state is done with its part.

COUNCILMAN ROSS reiterated that the City needs to work with the County on this matter, because even though medical marijuana may be considered a felony, other cities are allowing dispensaries, and it is only a matter of time before the federal government allows it, as no one has been prosecuted yet. He strongly supported moving forward with this state mandate and taking a leadership role in developing and implementing a plan.

CITY COUNCIL MEETING OF: FEBRUARY 5, 2014

MAYOR GOODMAN expressed concern about losing the right to ten establishments by not moving forward with a plan, but also about the legalities of this matter. MR. FAGG indicated that staff needs direction as to whether to move forward or not. COUNCILMAN COFFIN felt there has already been enough lengthy discussion on this matter.

MS. DUDDLESTEN advised COUNCILWOMAN TARKANIAN of the position of other local jurisdictions: Boulder City is not approving it; Clark County has not directed staff; Henderson issued a moratorium and North Las Vegas has not taken action.

COUNCILMAN ANTHONY stated that after extensive research on this matter, he cannot support medical marijuana and read a statement on medical marijuana and its dangers that was submitted as backup. He believes this movement is about legalizing medical marijuana for recreational purposes and financial gain.

COUNCILMAN COFFIN remarked that since he is not certain that marijuana is bad, and he believes that most of the harm statistics deal with abuse of marijuana, noting that all drugs have mood-altering properties, and that is what helps the pain. He certainly would not be opposed to using medical marijuana in some form to help him cope with his severe back pain, adding that it would only be fair to provide an alternative to help those suffering from severe pain, such as the pain experienced from cancer. This body has been given authority from the legislature to operate and it should not be declined.

ANTHONY HODGES, Las Vegas resident, said that everybody is different and nobody should impress upon others. He believes marijuana should be legalized federally because people are going to use it regardless.

MICHAEL McAULIFFE, RAYMOND FLETCHER, VICKY HIGGINS, LANCE FRANC, TODD FARLOW and KIRK DUPLAC expressed support of legalizing medical marijuana. They argued that it is not addictive and helps many cope with pain caused by many illnesses. MS. HIGGINS offered to provide COUNCILMAN ANTHONY with studies indicating the benefits of marijuana. MR. FARLOW stressed that it is a constitutional right, given that the voters approved it.

ATTORNEY and ASSEMBLYMAN WILLIAM HORNE indicated that he has a client interested in this industry and pointed out that people will use marijuana even if the local jurisdictions do not approve it because the state has legalized it. The arguments about addiction and issues are fair to discuss, but this is not up for discussion today, but rather how to get medical marijuana to patients.

STEVE PIXY understood the Councils concern with exposing the City to federal prosecution, but he pointed out that the the Department of Justice has already assuaged the same concerns of JAN BREWER of Arizona.

JENNIFER SOLIS noted that humans have within them an Endocannabinoid System that would not be necessary if the body were not designed to be able to digest cannabinoids.

COUNCILMAN BEERS expressed his support because of the medicinal properties of marijuana.

CITY COUNCIL MEETING OF: FEBRUARY 5, 2014

COUNCILMAN BARLOW stated that medical marijuana is the prohibition of the 21st century. Although he agreed with COUNCILMAN ANTHONYS arguments, he believes there is a clear distinction between medical and recreational marijuana. He would prefer the City keep its options open to allow more research. Therefore, he made the motion directing staff to work with Clark County to eliminate redundancies and develop a medical marijuana program that will benefit the City of Las Vegas.

COUNCILWOMAN TARKANIAN commended COUNCILMAN ANTHONY on his research regarding this issue, as well as SENATOR SEGERBLOM. However, she did not feel comfortable using taxpayer dollars to develop a program for a substance that is against federal regulations; that goes against the oath she took.

COUNCILMAN ANTHONY discussed with CITY MANAGER FRETWELL that approval of this matter is not approving the use of medical marijuana in the City, as there are still many questions that need to be answered.

MS. DUDDLESTEN then asked for general feedback to make sure staff brings back options in future proposals. She noted that Clark County staff was directed to develop regulations now and bring back a plan in March/April. She asked if the Council would prefer to review the applications before undergoing the state process. COUNCILMAN ROSS replied in the affirmative, adding that he wants the City and County working together to develop seamless regulations between the two jurisdictions.

MS. DUDDLESTEN added that the Council needs to consider where it would like to allow dispensaries, and whether they will be allowed under a privileged license. MR. FAGG interjected that the plan will provide the Council with all the options in order to make informed decisions.

COUNCILWOMAN TARKANIAN emphasized that she wants this done as clean as possible. MS. DUDDLESTEN assured her that she meets with County staff every two weeks on this matter, and she believes a plan will be drafted before the state, probably within the next 60 days.

COUNCILMAN COFFIN stated it makes sense to be in harmony with Clark County; however, he would prefer that the City Attorney draft an ordinance for the City, or the City might have to contract with an outside counsel for this endeavor, noting that the City Attorney has not done his job in properly guiding the Council in this matter. MAYOR GOODMAN pointed out that attorneys have to abide by the law. COUNCILMAN BARLOW strongly agreed with COUNCILMAN COFFIN, adding that the City Attorney and his staff works for this Council and should, therefore, defend its position. CITY ATTORNEY BRAD JERBIC emphasized that any attorney that would advise to move forward with a plan would be guilty of malpractice, given that federal and state regulations conflict in this situation. Since it is federally illegal, he has no opinion and has petitioned the Nevada State Bar for an opinion on whether he can or cannot advise the Council in this matter, given that the state has approved medical marijuana, yet Nevada Revised Statutes (NRS) prohibit him from helping the Council break a federal law.

COUNCILMAN COFFIN doubted that the City Attorney would be told he is committing a crime by crafting an ordinance for medical marijuana use when it has been state approved. CITY ATTORNEY JERBIC appreciated that argument, but disagreed because he has discussed with

CITY COUNCIL MEETING OF: FEBRUARY 5, 2014

the U.S. Attorney for Nevada that any money received from medical marijuana is considered drug money, so this industry would have to deal solely in cash; not even the banks can accept money from the sale of medical marijuana. MAYOR GOODMAN stated that with the states approval of medical marijuana, this Council is going to need advice. CITY ATTORNEY JERBIC understood that the law reflects the wishes of the voters, but he is concerned about his license. The only legal advice he could give is what he has already provided, that federal and state laws are in conflict. He assured that staff will craft an ordinance as it does in its normal course of business. COUNCILMAN BARLOW expressed concern about the Council not having legal coverage. CITY ATTORNEY JERBIC indicated that he has taken on this matter, because he cannot ask any member of his staff to go against their ethical beliefs. He believes the opinion of the Attorney General should come in soon.

COUNCILMAN ROSS commended CITY ATTORNEY JERBIC on his position, but asked to get back on task. CITY MANAGER FRETWELL suggested putting together options and getting opinions. CITY ATTORNEY JERBIC regarded research by staff to put a plan together for the Council as perfectly legal.

MAYOR GOODMAN directed that a plan be presented for the Council to prioritize. She would like information on best practices for medical marijuana from across the world, particularly from the Netherlands.

MS. DUDDLESTEN then went over the timelines slide. For COUNCILMAN BARLOW, MR. FAGG indicated that NRS requires that the Planning Commission review this matter before the Council because of the use and text amendment involved. He added that the Commissioners were briefed on this matter at a Planning Commission workshop held 2/4/2014. Public meetings will be held to discuss state regulations and joint workshops will be held with Clark County.