

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Workshop Meeting Wednesday, August 7, 2013

CALL TO ORDER

At 6:04 p.m., the Workshop Meeting of the Planning Commission of the Town of Apple Valley for August 7, 2013, was called to order by Chairman Lamoreaux.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner Doug Qualls, Commissioner Mark Shoup, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Bruce Kallen, and Chairman Jason Lamoreaux.

STAFF PRESENT

Lori Lamson, Community Development Director, Haviva Shane, Town Attorney, and Debra Thomas, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

Commissioner Qualls led the Pledge of Allegiance.

1. APPROVAL OF MINUTES

- A. Minutes for the Regular Meeting of July 17, 2013.

Vice-Chairman Kallen would like to change "General Plan Amendment Committee ("GPAC"). GPAC..." to read, "Development Advisory Committee ("DAC"). DAC..." on Page 1-3, second paragraph from the bottom of the July 17, 2013 Minutes.

Commissioner Shoup requested the word "alarmed" on Page 1-3, Paragraph 11 of the July 17, 2013 Minutes be stricken from the record.

Motion by Commissioner Qualls, seconded by Commissioner Tinsley, to approve the Minutes for the Regular Meeting of July 17, 2013 as amended.

Motion carried by the following vote: Ayes: Commissioner Qualls, Commissioner Shoup, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Kallen, and Chairman Lamoreaux. Noes: None. Absent: None. Abstain: None.

PUBLIC WORKSHOP ITEM

2. **Development Code Amendment No. 2013-03.** Discussion of the Town's Existing Urgency Ordinance clarifying the scope of the Town's prohibition of Medical Marijuana Dispensaries and recent laws regarding the banning and regulation of such dispensaries.

Applicant: Town of Apple Valley

Location: Town-wide

Chairman Lamoreaux opened the public hearing at 6:07 p.m.

Ms. Haviva Shane, Deputy Town Attorney, presented the staff report as filed by the Planning Division.

On May 28, 2013, the Town Council approved and adopted an urgency ordinance to revise the definition of medical marijuana dispensaries ("MMD") to close a loophole that would allow mobile facilities and storefront dispensaries within the Town of Apple Valley ("Town").

Ms. Shane explained the Town Council was bringing this topic back through the Planning Commission in order to ensure the enforceability of the urgency ordinance and taking it through the standard zoning process set forth in the government code.

PUBLIC COMMENTS

Mr. Leon Ruddock, Apple Valley, explained to the Planning Commission how many pharmaceuticals he had been prescribed and described how he uses fifty-percent (50%) less when he replaced it with medical marijuana. This urgency ordinance now prohibits him from access to medical marijuana. He suggested the Planning Commission could put all of this behind them, wrap its arms around the problem, and implement regulations that make sense. Banning dispensaries has created an underground backlash that might never be repaired. He provided the Planning Commission with suggestions on how the Town could regulate medical marijuana.

Mr. Spencer Sitnik presented a PowerPoint explaining a Town ordinance proposal that he had created and requested the Commission consider. Mr. Sitnik had worked on the proposal for approximately three and a half (3-1/2) years and had the assistance of Mr. Don Duncan, Director of California Safe Access, and Mr. Mike Llamas with the Medical Marijuana Institute. The main objective was to build acceptable, alternative access and provide options for controlled zoning and land usage.

Mr. Craig Cawley, Apple Valley, donated his three (3) minutes speaking time to Mr. Sitnik to allow him to continue with his PowerPoint presentation to the Planning Commission.

Mr. Sitnik continued with his PowerPoint presentation.

Ms. Kerry Cannon, High Desert Moms for Medical Marijuana & High Desert for Medical Marijuana, Apple Valley, volunteered her time to serve on the working committee. She explained her belief that the quality of life for many residents of the Town of Apple Valley had been decreased without safe access to medical marijuana. She believed obtaining

medical marijuana from the streets promotes more crime and she just wants safe access to the medicine that works best for each patient's condition.

Mr. Ted Berman, Apple Valley explained his former business to the Planning Commission. He stated that the commercial building he owns sits seventy-five percent (75%) vacant. He would like to lease building space to a professional, legal MMD. He believed marijuana had been saddled with a false stigma. Mr. Berman read an excerpt from a paper published by Holy Cross College and provided the Planning Commission with some statistics related to medical marijuana.

Ms. Brigit Roth, President of Higher Standards Wellness Clinic, invited the Planning Commission to visit the closed clinic to see its level of professionalism. All volunteers wore scrubs and excellent security measures were in place. Ms. Roth stated that the clinic would not allow patients to medicate on the premises. She extended her apologies to the Planning Commission for other dispensaries that opened and offended the community. She encouraged open communication between the Town and legitimate MMDs.

Mr. Tom Piper, Apple Valley, requested to be assigned to the working committee. He related that his understanding was that the federal government would not prosecute unless a violation of both federal and state law occurred. He commented on a portion of the Town's urgency ordinance citing that one patient per caregiver was an unreasonable restriction and believed that it would not be defensible in court.

Ms. Shane stated that the U.S. Attorney General's office had made early remarks that it would not prosecute if a dispensary operated in accordance with state law; however, in fact, the DEA is pursuing dispensaries and have backed away from that prior statement. Under *City of Riverside v. Inland Empire Patients Health and Wellness Center*, the ban is clearly defensible.

Ms. Elizabeth McLean, Apple Valley, uses medical marijuana and chooses to smoke due to hip and back pain as she has scoliosis. She described how marijuana, purchased from the streets, is laced with hard-core drugs and it often made her sick.

Mr. Tom Bergman asked if a delivery service delivers medical marijuana within the Town of Apple Valley, when and where it actually violates the Town's ordinance.

Ms. Shane explained that the delivery service is in violation the moment it enters the Town of Apple Valley's town limits.

Chairman Lamoreaux closed the public hearing at 7:02 p.m.

At this time, the Planning Commission discussed whether to schedule another workshop to discuss creating land use regulations for allowing medical marijuana dispensaries to conduct business in the Town of Apple Valley or use the language in the urgency ordinance, which would make mobile dispensaries part of the medical marijuana dispensary definition, and would continue the prohibition. The Commissioners discussed the inconsistencies in the law between the State and Federal governments.

MOTION:

Motion by Commissioner Qualls, seconded by Commissioner Shoup, that the Planning Commission move to:

Seek clarification from the Council as to whether they are willing to consider regulating medical marijuana dispensaries within the Town; therefore, requesting the Planning Commission to recommend land use regulations for medical marijuana dispensaries.

ROLL CALL VOTE

Ayes:	Commissioner Qualls Commissioner Shoup Commissioner Tinsley Vice-Chairman Kallen Chairman Lamoreaux
Noes:	None
Abstain:	None
Absent:	None

The motion carried by a 5-0-0-0 vote

PLANNING COMMISSION COMMENTS

None.

STAFF COMMENTS

Ms. Lori Lamson, Community Development Director, reminded the Planning Commission to mark the September 4, 2013 meeting on their calendar to continue the Town's Existing Urgency Ordinance clarifying the scope of the Town's prohibition of Medical Marijuana Dispensaries and recent laws regarding the banning and regulation of such dispensaries.

OTHER BUSINESS

None.

ADJOURNMENT

Motion by Commissioner Tinsley, seconded by Vice-Chairman Kallen, and unanimously carried to adjourn the meeting of the Planning Commission at 7:55 p.m. to the Regular Meeting on August 21, 2013.

Respectfully Submitted by:

Debra Thomas
Planning Commission Secretary

Approved by:

Chairman Jason Lamoreaux