

Board of Supervisors - Memo for Government Committee Meeting

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MENDOCINO COUNTY CALIFORNIA

Hello! Please provide the attached memo to the Government Committee and all appropriate staff.
Thank you!
Hannah

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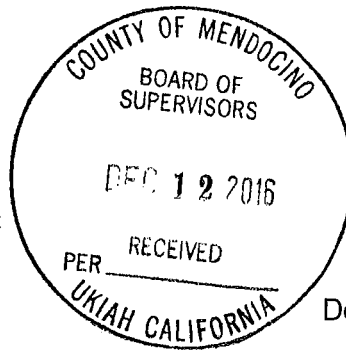
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December 12, 2016

Mendocino County Board of Supervisors
General Government Committee
501 Low Gap Road, Room 1070
Ukiah, CA 95482

Re: No available draft of non-cultivation business license ordinance; 5 new enforcement related ordinances/regulations.

Honorable Committee Members;

For many months we have been anticipating staff's presentation of the first draft of a non-cultivation cannabis business licensing ordinance. While it is certainly understandable if current workloads delayed its presentation or availability for this meeting, it is quite surprising that in its place are five new proposed ordinances and regulations pertaining to the enforcement of penalties against persons who violate cannabis business laws that do not yet exist.

Some time ago, the Committee and the full Board put cannabis taxation ordinances as a higher priority than the ordinances that allow people to lawfully cultivate and sell cannabis. Now, it seems that the Board is also putting enforcement issues ahead of them as well. While it may seem like a small matter to the Board, it is a very disturbing message to the people who have been asking to be regulated for more than a year. Even if, as a practical matter, the taxation and penalty issues needed to be dealt within the time frames presented, the continued message to the public is that providing the specific framework to make it possible to be lawful in cannabis related business is not a priority. Those who have come forward and asked to be regulated are presumed to violate rules before they are given the benefit of knowing what the rules are.

I urge the Committee and the full Board to counter balance this negative approach by taking four important steps in the process of finalizing all cannabis related rules and ordinances:

1. Create a sensible transition period for compliance on technical issues (that do not harm another person or the environment). Please ensure that the penalty related ordinances have a graduated or phased in full compliance period before harsh penalties are assessed. This is particularly important because of the administrative nature of many of the processes that will be used to enforce violations. Administrative techniques can be swift and lacking in many more complete due process procedures than people are accustomed to.



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2. Insert specific language in both the cultivation and non-cultivation licensing ordinances that provides for a transition period for some of the compliance issues (that do not harm anyone or the environment) and/or make specific provisions for provisional permits. This is important because applicants are dependent on outside agencies (both within the County and external to the County) to process requests, applications, and other paperwork, something which cannot yet be started because the ordinance is not final. For those with priority standing for first level of processing, there will necessarily be a limited window in which they can submit application materials. Should there not be provisional permits or licenses, they will be unable to participate in licensing if other agencies cannot process their other preliminary materials within the limited window. Also, currently, the state is still working out procedures for certain known prerequisites such as streamlined processes for water rights specific to cannabis cultivation (akin to the small domestic and small irrigation use procedures, but specific to cannabis industries).
3. Direct all County Departments to utilize implementing procedures and processes that seek to encompass the entire cannabis cultivation and other cannabis business community who wish to participate (if eligible) rather than using implementation procedures and processes to winnow down to a minimum those that will be licensed and regulated. Years ago, the Building and Planning had an unhelpful, negative approach to assisting citizens in becoming lawfully permitted in their buildings and other land use activities. In recent years, the Department has switched its focus to become more customer service focused, to provide helpful information and assistance in an effort to encourage citizens to comply with land use and building laws. I am requesting that the Board direct the same approach be taken in ALL departments so that citizens are encouraged to become lawful and regulated, are assisted with clear and helpful information, given an opportunity to comply, and given an opportunity to correct any mistakes that may arise as a result of the unique circumstances of being an industry that had not only never been regulated before, but in many instances were instructed to conduct themselves (underground) in a manner that is contrary to ordinary business and administrative transactions because of threat of prosecution.
4. Review all of the ordinances for language that could negatively impact full participation in the regulatory process for cannabis activities. So, for example, I have long believed that requiring photographic proof of cultivation in amounts greater than was previously lawful within three years (the statute of limitations) without having a statement from the District Attorney that no one will be prosecuted for providing such evidence, will discourage citizens from participating in the licensing



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program. Likewise, requiring that applicants have every piece of paper in hand before being issued even a provisional permit (especially when there once again won't be sufficient time before the growing season to have all supporting documents ready) will discourage participation. Not correcting the language in the cultivation ordinance that was originally intended to provide an ALTERNATIVE means of proof, satisfactory to the Ag Commissioner, to prove prior cultivation, discourages participation.

Please send a message to the citizens who have stood up and asked to be regulated that they are a priority and that you understand the unique challenges they face in coming out of the dark and into a regulated atmosphere. Please encourage full participation by taking active steps to ensure that County departments do not accidentally extinguish the possibility of bringing more people under the tent of regulation by implementing procedures and processes that eviscerate meaningful participation for those that have chosen to come forward but that might need a transition period to effectuate full compliance.

I do NOT believe that any department is intentionally trying to squeeze anyone out. Rather, I fear that due to the newness of the territory, the demanding workload, the sheer number of requirements necessary to oversee, and the confusion about the current state of the changing laws and regulations at the state level, the administration of licensing and taxing programs could unintentionally result in discouraging participation either through a failure to provide assistance and meaningful transitional periods, or by implementing procedures that as a practical matter make it impossible to fulfill the obligations within the times requested. The CEQA documents were contingent on a presumption of bringing into regulation many previously unregulated cannabis activities. In order to ensure that successfully occurs, these three steps are necessary.

Thank you for your careful attention to these very important issues.

Sincerely,

Hannah L. Nelson