



4201 Running Springs Road
Ukiah, CA 95482
September 17, 2016

Board of Supervisors
County of Mendocino
501 Low Gap Road
Ukiah, CA 95482

RE: Item 6b, meeting of September 20, 2016

Dear Supervisors:

In their letter of September 16, 2016, the "Mendocino Heritage Initiative of 2016" asks you to refrain from taking a position on their Measure AF and to "let the voters decide."

That is, this group wants the voters to decide without the benefit of your knowledge of the issues. They want the voters to make a decision about a 60-page document, written by this group's own attorney, influenced only by the advertising claims of their own committee. Let there be no independent informed opinion to interfere with the sales job.

They want the voters to approve an ordinance written by the same industry it purports to regulate, without knowing that you, as the elected representatives of the people, have worked diligently for months to prepare your own ordinance covering the same issues.

If you bow to their request at this critical moment, you will be implicitly supporting Measure AF. What would that mean?

Measure AF, while claiming to enact regulations, would **actually deprive local regulations of any effectiveness and credibility** whatsoever because the enforcement would be so weak and slow as to be non-existent. Under Measure AF, civilian employees of the various county departments would be **unsupported by the sheriff**. The civilian employees would be limited to writing a **\$100 ticket** for any violation of a permit, including not having a permit at all. The violator would be able to appeal the ticket and tie the County in knots by mandating the employment of an independent hearing officer, at county expense, for each and every ticket. Or, the violator could simply ignore the ticket and let it increase to \$1100 after 120 days because 120 days is enough time to harvest and because there is no mechanism, whatsoever, for the county to actually collect any fines.

Measure AF is a naked attempt to **eliminate local government restraints** on the marijuana industry. Consider these direct quotes from pages 20 and 21 of Measure AF:

“No violations of this Chapter shall be subject to criminal enforcement. No enforcement of provisions in this Chapter shall take place against a permit applicant while their application is pending.”

“Violations of this Chapter will result in a citation that included a \$100 fine and allows a period of 60 days to resolve the violation....Notwithstanding the foregoing, upon providing proof of correction of the named violation, the permittee may continue to operate and will not be fined while waiting for county inspection and confirmation that the named violation has been corrected.”

“The permitted entity or permittee shall be allowed to continue operating during the Appeals process.”

“Any determination of the Hearing Officer shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.”

Let's translate this into the language of the street: **“Go to Mendocino County. You can get away with anything there.”**

Of course there will be some growers who will be happy to stay within Measure AF's regulations because they are so permissive. Pesky neighbors can be told to shut up because Measure AF authorizes commercial cultivation in every residential zoning district, within 30 feet of a neighbor's property and within 100 feet of his house...except in a **mobile home park** constituting a single legal parcel, because then there are no setback requirements at all.

Under Measure AF, it would actually be legal in some situations to plant an entire acre of marijuana within 100 feet of a neighbor's house.....a neighbor who would have no recourse except to move away.

And forget about that bothersome requirement to **hide your marijuana plants** from view or keep wildlife away from your rat poison. Fencing is required only if the plants are visible from a road. And there is absolutely no requirement that the fence be solid, or that it exclude wildlife.

If the odor of skunk weed makes a neighbor sick, well that's just too bad, because Measure AF declares that marijuana growers are shielded by the **County's Right to Farm** ordinance, which says that “no agricultural operation” shall be judged to be a nuisance to “adjacent land uses.”

Recently you heard an impassioned plea from your own Council on Youth Policy to **protect children** from an all-pervasive presence of marijuana in our communities. But Measure AF would do the opposite. It would make **dispensaries a permitted use**

without limit on their location or numbers in all commercial zoning. It would eliminate 1000 foot **setback of marijuana grows** from youth-oriented facilities, churches and residential treatment centers. It would cut the setback from schools and parks from 1000 feet to 600 feet. And there would no longer be a requirement to hide plants **behind a solid fence. But let's not** take those rules too seriously. The only enforcement would be a \$100 fine, which could be put on hold by filing an appeal.

It's no surprise that the **Mendocino County Board of Education**, considering Measure AF's implications for youth, held a special meeting last week to unanimously vote a "No on AF" recommendation.

And then there is fire danger. Most structure fires in Mendocino County today are caused by indoor marijuana grows. Measure AF adds to the fire danger by recognizing butane processing to make hash oil as a "principal permitted use" in all industrial zoning. That means no discretionary use permit. It's no surprise that the **Mendocino County Fire Chiefs Association** voted unanimously last week to oppose Measure AF, commenting that "Our county fire agencies have well documented accounts of the accidental explosions with fire, burn injuries, fatalities and fires into our wildland urban interface caused by these processes."

Even assuming that its regulations would be observed without effective enforcement, Measure AF would sanction a **huge increase in the total amount of marijuana grown** in Mendocino County. Deforestation, erosion, and exhaustion of water supply are known impacts of marijuana. Measure AF proponents allege that state inspectors will prevent these impacts. We know better. The **state will be so overwhelmed** with violations statewide, and so impotent in its civil procedures, that no meaningful help can be expected.

Either we protect our environment through local action, or not at all. Measure AF means not at all. So dedicated **advocates for the environment say No on AF**. Peregrine Audubon Society voted a "No" recommendation, stating that "Peregrine opposes Measure AF due to provisions that would weaken environmental protection. Peregrine is especially concerned that CEQA would be by-passed." The Willits Environmental Center also opposes Measure AF for reasons it plans to set forth through its own statement.

The proponents of Measure AF may acknowledge that there are a few problems hidden within its 60 pages. But not to worry, they say, the Board of Supervisors can amend it. What the proponents never say is that **Measure AF prohibits any amendments** whatsoever until June 1, 2018, and then only if amendments "are consistent with and further the **purposes and intent of this Ordinance.**" Measure AF specifically states that the "intent" includes the finding that "the local culture and economy will thrive if farmers are encouraged to work with the plant." Any lawyer will love the opportunity to

represent the more extreme faction of marijuana advocates in a lawsuit to block corrective amendments offered by the Board of Supervisors because they might infringe on the marijuana-promoting “purposes and intent” of Measure AF.

As Supervisors, you know that your constituents need to talk to you and sometimes you need to talk to your constituents. They elect you to be their specialists in the arcane business of county government, with its complex web of law, regulations, procedures and politics. I don't think there was ever a more compelling situation than this one in which the voters expect to hear an opinion from the Board of Supervisors.

I trust that you won't hesitate to make a recommendation on Measure AF.

Sincerely,

Mike Sweeney

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