

July 21, 2020

From: Willits Environmental Center
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Contact: Ellen Drell, 459-2643

To: Chair Haschak and Members of the Mendocino County Board of Supervisors
501 Low Gap Rd.
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Re: BOS 7-21-20 Meeting Agenda Item 5b, which, though not specifically noted, will include a discussion of Cannabis Unit staff communications between Mendocino County Cannabis Unit staff and State agencies regarding the County's CEQA compliance procedures.

Dear Chair Haschak and Members of the Board;

The following comments are submitted on behalf of the Willits Environmental Center. We object to the failure of the posted Agenda for this meeting to disclose and detail the planned presentation regarding the County's Cannabis Unit staff's communications with State agencies pertaining to the County's CEQA compliance procedures, which issue is a prelude to further discussions regarding changes to and possible repeal of the County's Cannabis Ordinance, within the timeframe required by the Brown Act. This element of 5b and its implications are clearly of grave importance to members of the public, and cannot be dismissed as a mere technicality unworthy of any mention in the Agenda. We also object to County staff's efforts today, Monday 7-20-20, to deflect public comment on this specific planned discussion to Item 3a, public expression on non-agenda items.

The following comments are in addition to Willits Environmental Center comments submitted June 8, 2020 regarding BOS 6-10-20 Meeting Agenda Item 6b, in which we support the County's Cannabis Ordinance and oppose its repeal for several reasons.

Over the last year we have tried to clarify rumors about the State's supposed dissatisfaction with the County Cannabis Ordinance's CEQA process. We have also tried to find out the truth of these agency "hurdles" because they have become a rationale for repealing our Cannabis Ordinance.

As it turns out, the County cannabis staff has been in communication with state agencies for at least two years regarding this issue, likely longer. A year ago, the WEC filed a PRA with the Planning Department asking for all communications between staff and CDFA, CalCannabis relevant to this issue in order to understand the specific issues the State might have with our Ordinance and/or MND, if any. After several weeks we received mostly hundreds of pages of emails containing only pieces of conversations and references to phone calls and in-person meetings,

none of which had minutes or notes documenting those discussions. The supposed compliance issue remained a mystery. Aside from the occasional vague reference by staff to this ill-defined “problem” at Board meetings, there have been no clear discussions at any Board meeting on this critical issue, and certainly there have been no public forums. Meanwhile, rumors and fears continued to circulate in and outside of the cannabis-growing population.

In frustration with the response to our PRA, even the need for a PRA, the veiled and obfuscated responses by staff to occasional Board member questions, and the rumors swirling among growers, WEC has reached out directly to CDFW, and indirectly to CDFA/Cannabis Unit and asked them what the “problems” are with our CEQA process. What we’ve learned in the last few weeks through email and phone correspondence is that lower-level CDFW staff has prodded County staff and CDFW to come to an agreement regarding the process for Sensitive Species Habitat Review. These meetings are finally taking place, with positive predictions from CDFW. From CDFA, we’ve learned that the County is “good to go” with the State requirements for “site specific CEQA compliance” as long as County applications include additional detail regarding the project site, including topography, general vegetative type, and land use in the general area. The problem seems to be where the information is located rather than what is missing. We urge the Board to insist that staff prioritize resolution of these issues, and that the Board, and the public be kept informed of the progress.

The Ordinance has been characterized as “not working” by at least one Supervisor pointing not only to these alleged agency hurdles but also to confusion on the part of applicants and the public. Based on our first-hand experience and on reports from residents around the County, we are aware that staff has contributed to this confusion and frustration by not enforcing the Ordinance consistently and in many cases by ignoring certain fundamental elements of the Ordinance altogether. The staff has accepted application fees, issued embossed receipts, and given applicants the green light to operate even though their plans are in violation of the Ordinance. For example, applications have been accepted from new growers before Phase 3 has opened; from new growers on Rangeland, despite the prohibition; and on properties with recognized residual and on-going environmental damage. I was personally told by staff over a year ago that the Ordinance only applied to Phase 1, and that new rules would be written for Phase 3 growers! (Who is establishing policy?)

WEC participated with the Board in crafting the County’s Cannabis Ordinance and spent a year of long and trying meetings to come up with an Ordinance that allowed and regulated cannabis cultivation in the County AND protected the County’s unique natural environment. Key provisions include prohibiting expansion of cultivation on the County’s resource lands, limiting cultivation sizes, and limiting the number of permits per person, and other provisions. The Ordinance gave existing growers certain advantages, but discouraged a “gold rush” of speculators simply wanting to cash-in on the Mendocino County reputation of producing a quality, “green product”.

We urge the Board to keep, and enforce this Ordinance. Its worth and workability have not been honestly tested. The proposed replacement, i.e. the State’s regulations, with no zone restrictions, unlimited cultivation sizes and numbers of licenses per parcel, would erase any claim Mendocino County cannabis businesses might make of environmental safeguards and a truly green and unique product, (and trample on the expectations of the 22,000-member majority that voted “No”

on AF). The proposed “land use” avenue to permits, even in the hands of a staff committed to protecting the natural environment, would be a bandaid against the rush of speculators taking advantage of lifted restrictions. (The dismal record of enforcement is already previewing this situation in many places in the County.) Individual use permits, not to mention the more likely categorical exemptions, cannot prevent cumulative impacts. They often result in lots of paper work, little to no enforcement and ever more impacts. It’s far better and simpler to have an Ordinance that lays out the rules for everybody. But it must be enforced!

We are aware of last minute posted claims from staff that it can’t afford to enforce the Ordinance. The Board should not accept that claim on face value. The Board and the public deserve a detailed comparison of the cost of enforcing the Ordinance and the costs of other proposals with data and spread sheets. (That might be more expensive than enforcing the Ordinance.)

Thank you for your consideration of these comments.

Sincerely,
Ellen Drell for the Willits Environmental Center