

MEET

332
9/09/09

RESOLUTION NUMBER R-305234

DATE OF FINAL PASSAGE SEP 24 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO CREATING AND ESTABLISHING A CITIZENS'
COMMITTEE TO ADVISE ON QUESTIONS RELATED TO
MEDICAL MARIJUANA.

WHEREAS, in November 1996, California voters approved Proposition 215, the
"Compassionate Use Act of 1996," which is set forth in California Health and Safety Code
section 11362.5 and which provides seriously ill Californians the right to obtain and use
marijuana for medical purposes when such use is recommended by a physician; and

WHEREAS, Proposition 215 further provides that both the patient using medical
marijuana and the patient's "primary caregiver" are exempt from prosecution for violating
California laws prohibiting the possession and cultivation of marijuana; and

WHEREAS, effective January 1, 2004, the California Legislature enacted the "Article 2.5
Medical Marijuana Program," which is also referred to as "Senate Bill 420" and codified at
California Health and Safety Code sections 11362.7 through 11362.83; and

WHEREAS, Senate Bill 420 expanded state law exemptions for qualified patients who
use medical marijuana and their primary caregivers to include exemptions from arrest and
prosecution for possession for sale of marijuana; transportation, distribution, and importation of
marijuana; maintaining a place for unlawfully selling, distributing, or using marijuana;
knowingly making available a place for unlawful manufacturing, storage, and distribution; and
using such a place; and

WHEREAS, as part of Senate Bill 420, the California Legislature also provided for marijuana to be collectively or cooperatively cultivated for medical purposes by qualified patients and primary caregivers, pursuant to California Health and Safety Code section 11362.775; however, cultivating or distributing medical marijuana for profit is not authorized, as stated in California Health and Safety Code section 11362.765(a); and

WHEREAS, California Health and Safety Code sections 11362.785 and 11362.79 regulate the use of medical marijuana in work places, public places, and vehicles; and

WHEREAS, Senate Bill 420 also established a voluntary identification card system to be maintained by the State Department of Health Services, as set forth in California Health and Safety Code section 11362.71; the intent of the Medical Marijuana Program, established as part of Senate Bill 420, is to insure a uniform, statewide identification program for patients and primary caregivers; and

WHEREAS, San Diego Charter section 43(b) provides that the City Council may create and establish citizens' committees for the purpose of advising the City Council on questions with clearly defined objectives, as long as the citizens' committees are temporary in nature, are dissolved upon the completion of the objectives for which they were created, and committee members serve without compensation; and

WHEREAS, on May 22, 2001, the San Diego City Council established a Proposition 215 Implementation Task Force to determine the most efficient way to regulate the use of medical marijuana in accordance with Proposition 215; and

WHEREAS, the Proposition 215 Implementation Task Force was temporary, as mandated by San Diego Charter section 43(b); and

WHEREAS, on July 29, 2009, the Committee on Public Safety and Neighborhood Services of the City Council voted 4 to 0 to recommend to the City Council creation of a citizens' committee, advisory board, or task force regarding medical marijuana; and

WHEREAS, the City Council has reviewed and considered the recommendation of the Committee on Public Safety and Neighborhood Services to create the citizens' committee; and

WHEREAS, as required by Council Policy 000-16, the citizens' committee will adhere to the requirements of the Ralph M. Brown Act; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that this Council creates and establishes a San Diego Charter section 43(b) citizens' committee to advise on questions related to medical marijuana, and that this citizens' committee shall be temporary in nature, shall be dissolved upon the completion of the objectives for which it was created, and the committee members shall serve without compensation.

BE IT FURTHER RESOLVED, that the citizens' committee, to be known as the Medical Marijuana Task Force [Task Force], shall be composed of eleven citizens with the consideration for the following backgrounds: medical marijuana patient; social service provider from the substance abuse prevention community; legal professional; medical doctor or medical professional; medical marijuana collective or cooperative owner; community planner; small business owner; law enforcement; land use professional, and to include members of the community at large.

BE IT FURTHER RESOLVED, that the City Attorney and Independent Budget Analyst shall provide advice or assistance pursuant to the City Charter.

BE IT FURTHER RESOLVED, that City Councilmembers shall submit nominations for the Task Force to the Council President, who shall then appoint the Task Force members, with confirmation by a majority vote of the City Council.

BE IT FURTHER RESOLVED, that the Task Force shall advise the City Council on (1) guidelines for medical marijuana patients and primary caregivers; (2) guidelines for the structure and operation of medical marijuana cooperatives and/or collectives; and (3) guidelines for police department enforcement regarding medical marijuana.

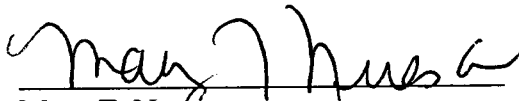
BE IT FURTHER RESOLVED, that the Task Force guideline recommendations shall fall within the California Attorney General's *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, published in August 2008.

BE IT FURTHER RESOLVED, that the Task Force shall meet for a period not to exceed one year and report to the City Council through the Committee on Public Safety and Neighborhood Services or the Committee on Land Use and Housing, where appropriate, at least twice during this time period.

BE IT FURTHER RESOLVED, that the Task Force shall report back to the full City Council before the end of calendar year 2009, with recommendations regarding land use/zoning issues, which would fall under the request for advice regarding guidelines for the structure and operation of medical marijuana cooperatives and/or collectives.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Mary T. Nuesca
Chief Deputy City Attorney

JFD:MTN:cfq:ar
08/25/09
09/09/09 REV.
Or.Dept:PS&NS
R-2010-119

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 08 2009.

ELIZABETH S. MALAND
City Clerk

By *Mary Zuniga*
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

*This Resolution was returned from the Mayor's office unsigned on ~~September 24~~ 2009
September 24, 2009.