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Agenda Item: ID17-909 (4:00 P.M.)

Date: 6/22/17

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Supplemental Information Packet

Agenda Related Item(s) – ID17-909 (4:00 P.M.)

Contents of Supplement: Staff Report

Agenda Item Title

Actions relating to marijuana within the City of Fresno

1. BILL – (for Introduction) – Amending Sections 12-2104 and 12-2105 of the Fresno Municipal Code relating to cultivation of marijuana
2. RESOLUTION – Initiating a Text Amendment to the Zoning Ordinance of the City of Fresno pursuant to FMC Section 15-5803-A (1) to establish zoning and use regulations for recreational Marijuana Activities within the City of Fresno

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

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REPORT TO THE CITY COUNCIL

June 22, 2017

FROM: Garry Bredefeld, Councilmember
Council District 6

SUBJECT

The initiation of a text amendment to the zoning ordinance prohibiting recreational marijuana operations, dispensaries, sales, and public consumption within the City of Fresno.

RECOMMENDATION

It is recommended that the Council approve the Resolution that would adopt an ordinance prohibiting commercial marijuana operations in all zone districts within the City of Fresno.

EXECUTIVE SUMMARY

Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act was approved by voters in November 2016. This ballot initiative under state law permits the use, sale and cultivation of marijuana for recreational purposes. The initiative, however, permits local jurisdictions to prohibit or regulate recreational marijuana use and dispensaries, up to and including prohibition.

Currently, marijuana use is a hotly debated issue, and its long-term health effects are still poorly understood. That said, there are some early indications that sustained usage could be detrimental to users' health, especially individuals with still-developing brains. There are also concerns about an increase in impaired driving, which has already proven to be a serious public safety issue for alcohol and prescription drug use. Additionally, employers still retain the ability to drug-test both prospective and current employees, which means marijuana use could have the real-world implication of causing job losses or job shortages. Finally, marijuana remains illegal under federal law, where it is classified as a controlled substance. Given the current political climate in Washington, additional problems could arise for jurisdictions that approve marijuana dispensaries and the drug's recreational use.

The best public policy solution for Fresno is to prohibit marijuana operations from conducting business within its boundaries.

The ordinance should also be reviewed after one year because it is important to take stock of how this decision has affected the City. Other jurisdictions that have prohibited recreational marijuana dispensaries and use have had to revisit their ordinances because of oversights and because unintended consequences have forced some rethinking and reevaluation. It is quite possible that no changes will have to be made, but it is nevertheless important that the ordinance be given a health check to ensure it is operating as planned.

BACKGROUND

In 2016 the citizens of California approved "Proposition 64," the Control, Regulate, and Tax Adult Use of Marijuana Act (the Act) which would allow, under state law, marijuana to be dispensed, cultivated, and used for recreational purposes; under Prop 64, recreational marijuana dispensaries would be allowed as of January 2018, following the state's implementation of a regulatory system. Prop 64, however, also recognizes the authority of local jurisdictions to prohibit or regulate marijuana dispensaries under local land use regulations. Prop 64 will be overseen by the Bureau of Marijuana Control with licenses issued beginning in 2018. Marijuana dispensaries would not be legal prior to 2018. However, the City of Fresno, CA does not currently have an affirmative ban on recreational marijuana dispensaries. Therefore, unless the City of Fresno approves an ordinance prohibiting dispensaries, recreational marijuana businesses will be legal beginning January 1, 2018.

ENVIRONMENTAL FINDINGS

N/A

LOCAL PREFERENCE

N/A

FISCAL IMPACT

The value of net gains cannot be gauged at this time because revenues from licensing vary by state and by county. Additionally, tax revenue projections are inherently uncertain because they rely on questionable assumptions about the unknown impact of black market supply on consumer demand in regulated markets (Evans, 2013). What's more, there is a risk of federal seizure of collateral that is used in marijuana activities since federal law precludes banks from doing business with marijuana operations because of the CSA of 1970.