



MEETING MINUTES

MILPITAS PLANNING COMMISSION

Special Meeting

**Milpitas City Hall, Council Chambers
455 E. Calaveras Blvd., Milpitas, CA**

Thursday, December 6, 2018

I. PLEDGE OF ALLEGIANCE

Chair Mandal called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL/ SEATING OF ALTERNATE

Present: Chair Mandal, Vice Chair Ciardella, Commissioners Maglalang, Morris, Chua

Absent: Commissioner Sandhu, Mohsin (excused)

Staff: Ned Thomas, Jessica Garner, Heather Lee, Rozalynne Thompson, Elizabeth Medina

III. PUBLIC FORUM

Chair Mandal invited members of the audience to address the commission.

Robert, resident of Milpitas for 35 years, would like for the City to introduce/establish a permanent water rate commission so they can evaluate the data that is given from the consultants.

IV. ANNOUNCEMENTS

Planning Director Ned Thomas provided departmental updates to the commission regarding:

- Community Meeting on Accessory Dwelling Units and Short-term Rentals – Thursday, December 13th at 6:00 p.m., Zanker Elementary.
- Regular City Council Meeting – Tuesday, December 18th, at 7:00 p.m. in the Council Chambers – swearing in ceremony for new Council members
- GPAC meeting – Wednesday, December 19th, at 7:00 p.m. in the Community Center. The consultants and GPAC members will discuss draft Economic Development policies.
- Special City Council Meeting – Wednesday December 19th, at 6:00 p.m. in the Council Chambers to consider a proposed citywide ban on commercial cannabis activities.
- Next Regular PC Meeting will be December 12.
 - Three development applications for review; agenda will post tomorrow and packets sent for review.
 - On 12/12, staff will recognize Commissioners Sandhu and Ciardella for their many years of dedicated service on the

Commission.

- Chair Mandal and Commissioner Morris have terms that will expire in December 2019. All other Commissioner's terms will expire December 2018 or already expired in December 2017.
- Staff is currently reviewing applications and preparing a list of applicants for the Mayor and City Council to appointment or reappointment new Planning Commissioners in January 2019.
- No Planning Commission Meeting on Wednesday, December 26th. City Hall will be closed during the last week of December (December 24th through January 2nd).
- Regular Planning Commission meeting on Wednesday, January 9, 2019 will be cancelled if there are no items to be heard.
- First regular Planning Commission will be held on January 23rd. This will be after the City Council has appointed or reappointed new members to the Commission and would be reserved for onboarding and training as well as discussion about on a work plan through end of FY2018-19 in June.
- The City has a new Economic Development Director, Alex Andrade, who will start working next Monday, December 10th. Alex has served as Economic Development Manager at the City of Mountain View for the past five years and will be a great addition to the City of Milpitas.
- The City has also hired a new Housing Administrator, Robert Musallam, to manage the City's affordable housing portfolio and other housing-related matters. He started this past Monday, December 3. He has been working in private-sector real estate in recent years, and also has extensive experience in affordable housing through his work for the San Francisco Housing Authority.

V. CONFLICT OF INTEREST

Deputy City Attorney Heather Lee asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.

VI. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the December 6, 2018 agenda as submitted.

Motion/Second: Commissioner Chua/Commissioner Morris

AYES: 5

NOES: 0

VII. PUBLIC HEARING

ZONING TEXT AMENDMENT – PROHIBITION ON COMMERCIAL CANNABIS ACTIVITIES AND PERSONAL USE CANNABIS CULTIVATION REGULATIONS – CITYWIDE – P-ZA18-0004: City-initiated Zoning Ordinance Text Amendment to prohibit commercial cannabis activities. The proposed regulations would prohibit all medical and adult-use commercial cannabis activities, including but not limited to, commercial cultivation, delivery, distribution, manufacturing, microbusinesses, retail/dispensaries and testing laboratories. The proposed ordinance would also regulate indoor cultivation of cannabis for personal use and prohibit outdoor cultivation of cannabis as permitted by State Law.

Project Planner Rozalynne Thompson showed a presentation and discussed the project.

Commissioner Morris asked about communication with the community regarding this evening topic. She inquired if the City was able to inform the community in a timely matter. Ms. Thompson understood there were outreach sessions with the community where it referenced the State law that were held over the summer.

Vice Chair Ciardella inquired if edible items, such as brownies, will be prohibited by this ordinance. Ms. Thompson noted that any commercial cannabis use, which includes retail, manufacturing, cultivation are all prohibited.

Commissioner Maglalang asked what is the difference between the Federal and State law in regards to cannabis. Attorney Lee stated that she understands that the Federal law precludes the State law and there is a disparity between the two laws.

Commissioner Chua referenced the ordinance banning cannabis, asked if we would have to observe the in resident cultivation. Ms. Thompson said that is correct. Ms. Chua asked for clarification of “indoor” in the resolution, asking if a shed from Home Depot is considered indoor. Ms. Thompson said the cultivation can only take place in a fully enclosed secure structure; which a shed does not qualify to be. Ms. Chua inquired about the use/consumption of cannabis. Captain Moscuzza clarified what is State law as far as use/consumption. Ms. Chua asked for Ms. Thompson to walk her through the tentative timeline for cannabis ban. Ms. Chua also asked if there is anything that can derail the implementation of the ordinance ban. Ms. Thompson stated that in 30 days it could be repealed but it would have to be done via petition. Attorney Lee second what Ms. Thompson said in regards to the repeal process and the time line to do so. Commissioner Morris then asked what would derail the cannabis ban. Attorney Lee again stated the repeal and petition details for Ms. Morris.

Commissioner Ciardella asked if he had an in-law unit on his property if he’d be able to have more than six plants. Ms. Thompson noted that an in-law unit does qualify as a residence; a home owner would be able to have six plants in the primary residence and six plants in the accessory dwelling unit as well.

Commissioner Maglalang inquired about the six plant limit. He asked if ten houses on one street had six plants each and brought it to one house for a party, would it be a violation of State law. Ms. Thompson asked Mr. Maglalang if the attendees of the party would be cultivating. Mr. Maglalang said at the party it would be for personal use. Ms. Thompson noted that cultivation and personal are different. Mr. Maglalang asked Chair if this item takes precedence over the last cannabis item discussed at a prior meeting. Mr. Mandal told him that the Commissioners are

making a decision on what is being presented to them tonight. Planning Director Thomas explained that their previous recommendation was brought to the Council, then declined, and with the recommendation of the Council is being brought back to the Planning Commission to make a recommendation for the cannabis ban. Commission Morris requested more details of the action that the Council took regarding cannabis. Mr. Thomas updated the Commissioners on the City Council meeting that was held on November 20th, where there was public testimony from the residents who were not for cannabis related activities in Milpitas, ending with the Council wanting to enact a ban. Commissioner Morris stated she was confused. Mr. Thomas clarified her confusions and noted that the City Council would need a recommendation from the Planning Commission in order to move forward with a ban. Mr. Mandal then noted that this is a zoning ordinance change.

Commissioner Chua asked Attorney Lee for more clarification of the derailment possibilities and its timeline. Attorney Lee advised that the timeline and processes described are applicable to all ordinances.

Chair Mandal asked if a resident could sell product from the six plants that are allowed to be grown in a dwelling. Ms. Thompson stated that is prohibited because that would be a commercial activity.

Chair Mandal opened the public hearing.

Ron Lind, 40 year resident of Milpitas stated that the ban on cannabis is bad public policy, we need common sense regulations and a tax scheme; asked Planning Commission to reject the proposal.

Martha, drug counselor & drug educator, stated that marijuana never killed anybody by overdose. She also said that cannabis clubs are well maintained, clean and secure. She does not see a problem with cannabis.

Samayah Alexander, a resident of Milpitas for over 45 years, stated that she is in favor of opening cannabis shops in Milpitas. She believes it will be income to the City.

Mark, Milpitas resident, stated that cannabis activity would not bring crime to the City.

Approximately 27 residents spoke to support the ban and opposed having cannabis businesses and activities in Milpitas. They expressed concerns that allowing cannabis businesses in the City would lead to an increase in crime, traffic and parking, contribute to the bad odor, surge of DUIs and the risks of addiction. One resident made the recommendation to have residents who currently grow cannabis in their home to register it with the City.

Motion to close the public hearing.

Motion/Second: Commissioner Chua/Commissioner Morris

AYES: 5

NOES: 0

Commissioner Maglalang asked Senior Planner, Rozalynne Thompson if she had a list of cities that currently ban cannabis. She stated she does not but believes

Fremont has banned it.

Commissioner Morris stated there is lot of misinformation and doesn't believe it serves our community well. She doesn't feel as though cannabis would be solicited to our youth; it is the parents' responsibility to mind what their children are involved in. Ms. Morris would hate for residents to be overlooked who need cannabis for medicinal purposes and not have it accessible to them in our own City.

Commission Chua asked Ms. Thompson to explain the time gap from January 17, 2019 to February 14, 2019 urgency ordinance for the residents who inquired during public forum. Ms. Thompson explained that the City Council can adopt an urgency ordinance after the expiration of the current moratorium to cover the gap from 1/17-2/14. Commissioner Chua requested Ms. Thompson clarify a few items in the staff report.

Chair Mandal stated that Milpitas is a small city that we want to make better for our children and the next generation. He personally doesn't think it makes sense allow marijuana shops in Milpitas considering the City is small and already has a bad odor from the landfill. He said he feels like Milpitas is the best city in the world and by allowing cannabis in the City, it would be just taking Milpitas backwards.

Motion to Consider and adopt Resolution No. 18-022 ZONING TEXT AMENDMENT – PROHIBITION ON COMMERCIAL CANNABIS ACTIVITIES AND PERSONAL USE CANNABIS CULTIVATION REGULATIONS – CITYWIDE – P-ZA18-0004: Consider and adopt a resolution recommending that the City Council adopt a City-initiated Zoning Ordinance Text Amendment to prohibit commercial cannabis activities, to prohibit outdoor cultivation for personal use, and to regulate indoor cultivation of cannabis for personal use.

Motion/Second: Commissioner Chua/Commissioner Ciardella

AYES: 4

NOES: 1 (Morris)

VIII. NEW BUSINESS

NO ITEMS

IX. ADJOURNMENT

The meeting was adjourned by Chair Mandal at 8:40PM.

*Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina*