

CITY OF COCOA
PLANNING & ZONING BOARD MEETING
MEETING MINUTES
October 26, 2017

A meeting of the Planning & Zoning Board of the City of Cocoa was held on Thursday, October 26, 2017 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

OPENING MATTERS:

Chairman Mike Dobrin called the meeting to order at 6:02 P.M. The Board Secretary called the roll.

MEMBERS PRESENT:

Michael Dobrin	Chairman
Al Washington	Vice Chairman
Aleck Greenwood	Board Member
Jack Moore	Board Member
Todd Anderson	Board Member
Jake Williams	Board Member
Sherry Ervin	Board Member

MEMBERS ABSENT:

Troy Stephan	Board Member
Russell Sengel	Board Member
Jeri Blanco	Board Liaison

OTHERS PRESENT:

Karen Hamilton	Community Services Director
Cindy Thurman	Planning & Zoning Manager
Kristin Eick	Board Attorney
Monica Arsenault	Board Secretary

APPROVAL OF AGENDA & MINUTES:

1. Approval of Agenda: October 26, 2017.

Prior to the approval of the agenda and minutes, Mr. Greenwood requested that discussion be added to the agenda regarding the City's tree ordinance. In response, the other Board members agreed that they would need additional time to research the topic before bringing it back to the Board for discussion. It was decided that the item would be added to the next scheduled meeting.

Motion by Jake Williams, seconded by Al Washington, to approve the agenda of October 26, 2017. The vote on the motion carried unanimously.

2. Approval of Meeting Minutes: August 14, 2017.

This item was postponed to the next regularly scheduled meeting.

OLD BUSINESS:

- A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A - ZONING OF THE CODE OF THE CITY OF COCOA; PROHIBITING MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES FROM LOCATING WITHIN THE CITY; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Ms. Kristin Eick, Assistant City Attorney, provided background information regarding Ordinance No. 18-2016. She explained that the City Council adopted a temporary moratorium prohibiting any and all medical cannabis activities within the jurisdictional limits of the City of Cocoa during the moratorium period, which expired on October 21, 2017. Furthermore, Ms. Eick explained that given the intervening enactment of amendments to Section 381.986, Florida Statutes, the Planning and Zoning Division, the City Manager, and City Attorney's Office are seeking direction from the City Council. Specifically, SB 8-A contains preemption provisions regarding dispensing facilities of medical marijuana treatment centers, providing that a municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that municipality. However, a municipality that does not ban dispensing facilities may not place specific limits on the number of dispensing facilities that may locate in the municipality and, further, may not enact ordinances for permitting or determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies license under Chapter 465, Florida Statutes.

She explained that due to the expiration of the moratorium, the City Council must now adopt an ordinance to either extend the moratorium, impose a ban on medical marijuana treatment center (MMTC) dispensing facilities, or regulate MMTC dispensing facilities in a manner no more restrictive than ordinances permitting or determining the location for pharmacies licensed under chapter 465, Florida Statutes.

On October 10, 2017, the City Manager and the City Attorney's office requested preliminary guidance from the City Council with respect to the options above, and the City Council directed the City Attorney's Office to prepare a draft ordinance banning MMTC dispensing facilities from locating within the City of Cocoa for Planning and Zoning Board recommendation.

It is suggested that because the City is preempted from regulating the number, location, and distance requirements of MMTC dispensing facilities in a manner different from licensed pharmacies, apart from the distance from schools, which is set at five hundred

feet per state law, the City is unable to promote the public health, safety, and general welfare of its citizens. If the City allows MMTC dispensing facilities, they would currently be permitted in every zoning district allowing traditional pharmacies.

Mr. Dobrin opened the discussion to the Board.

Mr. Dobrin inquired what other surrounding cities are doing to address the medical marijuana dispensing facilities. In response, Ms. Eick stated that she was unsure at this time.

Ms. Ervin inquired when the moratorium would expire should the Board decide to extend it. In response, Ms. Eick stated that it is not recommended to extend the moratorium due to other legal issues that can happen when extending a moratorium indefinitely.

Mr. Dobrin asked if there would be legal challenges if all of the cities decided to ban MMTC dispensing facilities. In response, Ms. Eick stated that she was not currently aware of any legal challenges in terms of the ban. She stated that there are law suits that are pending in regards to the "smoking" or "non-smoking" aspect of the law.

Mr. Moore inquired what would happen if a person were to apply to open a dispensary since the moratorium expired on October 21, 2017. In response, Ms. Eick explained that the City would rely on the pending ordinance doctrine as the City Council recommended on October 10, 2017 to begin the preparations of an ordinance banning MMTC dispensing facilities.

The discussion was closed to the Board.

Motion by Jake Williams, seconded by Sherry Ervin, to recommend approval to the City Council of Ordinance No. 12-2017, amending Appendix A Zoning to prohibit MMTC dispensing facilities from locating within the City.

Motion carried unanimously (7-0).

It was noted that no one in the audience wished to speak.

Ms. Thurman shared a few brief statements regarding the medical marijuana market.

NEW BUSINESS:

None

OTHER BUSINESS:

None

NEXT MEETING:

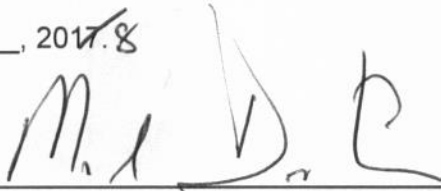
The Board members established that the next meeting would be held on November 8, 2017.

ADJOURNMENT:

Motion to adjourn by Russell Sengel, seconded by Jake Williams.

There being no further business the meeting adjourned at 6:41 P.M.

Approved on this ~~10th~~
10th day of January, 2017.8



Michael Dobrin, Chairman



Monica Arsenault, Board Secretary