

**MINUTES  
CITY OF COCOA  
MARIJUNANA POSSESSION & MEDICAL MARIJUANA DISPENSARY WORKSHOP  
OCTOBER 29, 2019**

A Special Meeting was held on Tuesday, October 29, 2019 in Council Chambers at City Hall, 65 Stone Street, Cocoa, Florida 32922 in order to hold a Marijuana Possession & Medical Marijuana Dispensary Workshop.

**I. OPENING MATTERS**

Mayor Williams Jr. called the meeting to order at 6:00pm.

Kenny Johnson, City of Palm Bay Council Member provided the invocation and Councilmember Goins led the assembly in the Pledge of Allegiance to the flag of the United States of America.

**PRESENT:**

Jake Williams Jr.	Mayor
Brenda Warner	Deputy Mayor
Don Boisvert	Councilmember
Alex Goins	Councilmember
Lorraine Koss	Councilmember
John Titkanich	City Manager
Matt Fuhrer	Assistant City Manager
Anthony Garganese	City Attorney

**ABSENT:**

STAFF PRESENT: Nancy Bunt, Community Services Director; Mike Cantaloupe, Police Chief; Dodie Selig, Planning & Zoning Manager; and Angela Essing, Senior Planner.

**II. WORKSHOP TOPICS**

**A. Marijuana Pre-Arrest Discretionary Diversion Program**

Assistant City Manager Fuhrer provided background regarding the program Cocoa is looking to implement for those found in possession of marijuana (20g or less), how the city could possibly implement such program, and how the new law has impacted marijuana-related arrests in Florida.

Chief Cantaloupe spoke on Cocoa PD's internal policy regarding physical arrests for marijuana possession. He explained with the new law, only marijuana that registers with a THC (Tetrahydrocannabinol) percentage higher than three percent (3%) is illegal, however, there is no test kit with FDLE (Florida Department of Law Enforcement) or with any agency in the state that can test for the THC level. He explained that as of July 1, 2019 he instructed his officers to not make any physical arrest for marijuana possession because the charge would not be prosecuted. Anything over twenty eight (28) grams will be taken and held as potential evidence for when they possess the equipment needed to test the THC level.

Discussion between Chief Cantaloupe and Deputy Mayor Warner regarding a hypothetical situation and what Cocoa Police Department's (CPD) response would be should someone be found with large amounts of marijuana or if someone was caught selling marijuana.

Chief Cantaloupe shared that Cocoa's K-9s are still fairly new and even though Brevard County Sheriff's Office (BCSO) has twelve (12) new K-9s, it doesn't mean Cocoa's K-9s are no longer effective. He explained that while you cannot un-train the dogs to not pick up marijuana scents, the dogs are still trained to pick up a variety of other drugs that are still illegal to possess i.e. cocaine, meth, etc.

Deputy Mayor Warner pointed out that even if a K-9 hits for marijuana and the officers find meth, the drugs are still taken off the street, which is the main point.

Chief Cantaloupe explained that the State Attorney's Office will still prosecute defendants who are found in possession of other drugs and he noted that it is important to establish case law to make a difference.

Councilmember Goins shared that Palm Bay has started their Civil Citation Program and introduced Kenny Johnson, Palm Bay Council Member, who explained the program more in-depth.

Councilmember Johnson explained what Palm Bay's Civil Citation Program entails. He shared that the State Attorney's Office gave them the green light to proceed with the program and explained how the city utilizes the program's three (3) strikes/violation policy. If you are found to be in possession of marijuana, the policy is enforced at the discretion of the Palm Bay Police. Policy Violation levels are as followed:

- First Strike: \$150 fine or 15 hours of community service with Habitat for Humanity of Brevard County.
- Second Strike: \$300 fine or 30 hours of community service with Habitat of Humanity Brevard.

- Third Strike: \$500 fine and an outpatient treatment program at Specialized Treatment, Education and Prevention Services of Brevard County (STEPS).

Assistant City Manager Fuhrer added that the City of Cocoa Beach was the first city in the county to enact such a program and they have yet to issue a citation and noted a few things the city should be aware of.

Deputy Mayor Warner inquired if the citation would show up under public record.

City Manager Titkanich explained that the citation is public record and pointed out that if you were working in a drug-free workplace, even with a medical marijuana card, you would be held liable if cited and the citation may eliminate a person from job consideration.

Mayor Williams suggested holding off from enacting any programs until further direction from State Attorney Phil Archer is given.

Discussion between Deputy Mayor Warner, Chief Cantaloupe, and Palm Bay Councilmember Johnson regarding how citation records are kept.

City Attorney Garganese discussed the potential collateral consequences the city could face, should the city adopt a civil citation program. He also mentioned that marijuana possession is still illegal at the federal level, which potentially could create other problems with federal funding.

Assistant City Manager Fuhrer added they did research regarding if adopting the ordinance would prevent them from applying for federal grants and other consequences that could affect the city as a whole such as the Crime Report. Overall, he stated that the ordinance is not ready to be implemented right now.

City Attorney Garganese raised the point that by adopting such an ordinance, they would be faced with the question of whether or not to bring in a special magistrate, an attorney, or to simply just submit the cases to the Code Enforcement Board to be handled should someone contest a citation.

Deputy Mayor Warner felt that decision would depend on how many citations the city would write and how many citizens would contest it.

Councilmember Goins added that they could also look into the money from the citations possibly going towards Cocoa's PAL Program or other programs.

Palm Bay Councilmember Johnson noted they put their citation funds towards their Opioid Task Force.

Councilmember Koss and Chief Cantaloupe discussed drug-paraphernalia arrests.

Councilmember Koss suggested that the funds could go towards the Space Coast Recovery Center<sup>1</sup>.

City Manager Titkanich suggested that a civil citation program should not be set up until more direction from the State Attorney's Office is received.

Deputy Mayor Warner asked if they could design a plan and not implement or agree on it until such direction from the State Attorney's Office is given. She emphasized she wanted to have an ordinance drafted and in place so they are able to implement it once they have direction.

Discussion was held regarding decriminalizing marijuana and the legality of it.

City Attorney Garganese commented that an ordinance could be worked on to have on standby for when the city is ready for it to be implemented.

City Manager Titkanich discussed possible consequences of having the civil citation program.

Chief Cantaloupe mentioned that Brevard currently has a juvenile civil citation program that is not only for drugs but also for misdemeanor crime. He explained that the civil citation program that they are wanting to implement would be no different except it is geared towards adults (18 years or older) and the adults would not go through Crosswinds nor be eligible to have records of citations sealed/expunged as they would be public record.

Discussion between Councilmember Koss and Chief Cantaloupe regarding if there was a way to not have the citation recorded.

Councilmember Goins added that after talking to the Commissioner in Ft. Lauderdale, he suggested to implement community service over fines because at least then they are giving back to the community.

Mayor Williams shared that overall, they want an ordinance ready and in place when the time is right to implement it.

B. Regulation of Medical Marijuana Dispensaries

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<sup>1</sup> Mr. Johnson left the room at 6:43pm

City Manager Titkanich presented a PowerPoint<sup>2</sup> and provided the background<sup>3456</sup>. He explained the statutes give the city two (2) choices regarding medical marijuana dispensaries which are to either 1) ban or 2) treat medical marijuana facilities as pharmacies for zoning purposes and he provided a summary of the statute (Fla. Stat. § 381.986)<sup>7</sup>.

Discussion between Mayor Williams, City Attorney Garganese, and City Manager Titkanich regarding regulation of locations of pharmacies and if pharmacies outside the new zoning area would be grandfathered in. Discussion was also held regarding conforming and non-conforming pharmacies under the new zoning.

City Manager Titkanich presented the proposed zoning map showing where pharmacies would be allowed to be established and explained the zoning color codes.

Discussion between Deputy Mayor Warner and City Manager Titkanich on the clarification of dispensaries being allowed in residential zoning areas.

Deputy Mayor Warner inquired what the Council is being asked to consider regarding the presented zoning map.

City Manager Titkanich replied that the question before them is if they want to lift the current ban on medical marijuana dispensaries or to continue the ban.

Mayor Williams commented that decision would require some thought.

City Manager Titkanich discussed the Orlando dispensaries and how they are set up with their business.

Deputy Mayor Warner pointed out that she would like to keep the ban in place until Council has a chance to discuss where the dispensaries can be placed and would prefer the dispensaries to be inside city limits, so that they can be controlled.

Mayor Williams added on to Deputy Mayor Warner's point by explaining why he voted for the ban originally.

Discussion between Mayor Williams Jr., Deputy Mayor Warner and City Manager Titkanich regarding lifting the ban, dispensary reciprocity/distance requirements, and the process being dependent on an applicant.

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<sup>2</sup> Potential Medical Marijuana Areas Based on Zoning for Pharmacies

<sup>3</sup> Brenda Warner left the room at 6:55pm

<sup>4</sup> Anthony Garganese left the room at 6:56pm

<sup>5</sup> Anthony Garganese re-entered the room at 6:57pm

<sup>6</sup> Brenda Warner re-entered the room at 6:58pm

<sup>7</sup> Exhibit 1: Medical Marijuana Dispensaries Handout

Councilmember Koss noted that she would like to see the ban lifted. She then inquired what the basis is for treating the dispensaries as pharmacies.

City Manager Titkanich explained that the dispensaries are medical facilities just as CVS or Walgreens are with their pharmacies inside. He also explained if they lift the ban then it affects where to place pharmacies and dispensaries.

Discussion was held regarding how long an ordinance would take to draft and discussion of cultivation.

City Attorney Garganese stated that the city does not have a say in cultivation, it is up to the state.

Councilmember Goins asked if they will be going over the locations during a Council meeting.

City Manager Titkanich explained that once they fix the maps, give a copy of the new maps to Council, meet with the City Attorney to put together an ordinance, show the proposed ordinance to Council to allow staff to submit an application to the Planning & Zoning Board where that board will give their recommendation and then once that recommendation is made, it will be brought back to Council for another discussion.

Deputy Mayor Warner requested staff contact the new pharmacy owner who purchased property on US 1 across the street from the Sushi Market, to inform them of the process they are talking about tonight as it may affect their business.

Jeri Blanco, Cocoa Planning & Zoning Board Member, encouraged Council to carefully consider where they are allowing dispensaries to be placed as a courtesy to future generations as to not negatively affect residents in that area.

A Cocoa Citizen asked for clarification regarding if the medical marijuana dispensaries are for only for dispensing and not cultivating.

City Manager Titkanich confirmed that it is just dispensing and stated cultivating is regulated through state law.

The Cocoa citizen followed up with the question of who would do inspections of the dispensaries.

City Manager Titkanich stated that appointment of inspectors are delegated through the state, as cities do not have the authority to choose.

Discussion between Councilmember Koss and City Manager Titkanich regarding medical marijuana dispensaries being a cash business and the requirements that are associated with it.

Discussion was held between the citizen and City Manager Titkanich regarding the application process for the dispensaries.

Further discussion was held between Aleck Greenwood, 640 Brevard Ave., Cocoa, and City Manager Titkanich regarding if the city can designate a location for cultivation.

Mr. Greenwood expressed that there is a lot of research that needs to be done and suggested a research trip to Colorado to collect feedback from established dispensaries there.

C. ADJOURNMENT

\* **MOTION by Councilmember Boisvert; Seconded by Councilmember Goins to adjourn the workshop.**

**AYES: WILLIAMS, WARNER, BOISVERT, GOINS, KOSS**

**MOTION PASSED UNANIMOUSLY**

There being no further business the workshop was adjourned at 7:38pm.

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Jake Williams Jr., Mayor

Respectfully Submitted By:

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Courtney Jackson, Recording Secretary