

SIERRA COUNTY

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SIERRA COUNTY BOARD OF SUPERVISORS

NATURAL RESOURCES, PLANNING & BUILDING INSPECTION STANDING COMMITTEE MEETING MINUTES

January 26, 2016

The Sierra County Board of Supervisors Natural Resources, Planning & Building Inspection Standing Committee met in session on Tuesday, January 26, 2016 at 9:30 a.m. in the Board Chambers, Courthouse, Downieville, CA.

Called to order at 9: 30 a.m.

Present: Supervisors Roen and Adams

Staff: Jim Curtis, Tim Beals, Heather Foster, Tim Standley, and Mike Fisher

1. Continued review of existing County Ordinance No. 1055 regarding cultivation of medicinal marijuana and possible recommendation regarding revisions to said ordinance.

Supervisor Roen opened the meeting.

Supervisor Adams provided background on what has happened since the last meeting including the March 1, 2016 deadline and battle at the state level in determining what this deadline means. Most counties are struggling to get something in place by March 1st; however, this deadline is likely to change with the proposed new legislation, AB 21. The Board of Supervisors meets next Tuesday so unless the Governor signs the bill this Board will operate as though this deadline is not going to go away and will take appropriate action. Also, since the last meeting Nevada County has banned all outdoor grows in the unincorporated portion of the County. Supervisor Adams indicated that he would like to hear from staff specifically the Planning Director and Sheriff as he is struggling with coming up with a system that is supportive of everyone; he is trying to come up with a balance.

Jim Curtis indicated that Nevada County approved submitting their ordinance to the voters.

Supervisor Adams indicated he strongly recommends that whatever the Board does, it goes to the voters. He further referred to the initiative process wherein anyone can collect signatures and place a measure on the ballot.

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Mr. Curtis suggested tackling the issue of commercial growing as a separate matter.

Supervisor Adams suggested bringing the issue of commercial grows to the full Board's attention since this matter has not been directed to the Committee by the full Board. Supervisor Adams continued to note at this time he would like to come up with an equitable system for those that want to grow for themselves and he is inclined to recommend putting a ban on commercial grows for now.

Mr. Curtis noted the best approach he has heard from other counties is to ban commercial activities for now.

Director Beals explained that the concept of commercial grows requires a great deal of regulations and he is not in a position to make a strong recommendation either way. Those counties that are considering commercial grows are dealing with large analysis with respect to land use. If the Board has an appetite to look at commercial grows he is willing to do so, however he is not in a position to address it at this time.

Sheriff Standley concurred that the infrastructure has not been put in place for commercial grows and he is not sure the County could afford to do so. He would recommend the Committee and the Board ban commercial grows. With respect to personal grows, he would like to see this accomplished in some limited fashion.

Considerable comments were received from the public regarding banning commercial grows now but leaving the door open for future consideration; the need for personal grows for those who are in need of medical marijuana; and concerns with banning commercial grows and the need to develop and implement rational laws for cultivation in line with the MMRSA.

Following public comment Supervisor Adams reiterated the need to ban commercial grows now so the County doesn't get stuck with the state's requirements. Should the County decide to move forward in the future with commercial grows, he would suggest referring this matter to the Planning Commission. He would also recommend banning dispensaries for now and reserve this right for later.

Director Beals indicated that dispensaries are a zoning issue and you have to go through the proper process with respect to the general plan and zoning code.

Mr. Curtis referred to the new legislation, noting any commercial grows or dispensaries will require local authorization to issue a use permit process which is not a small task. With respect to the existing ordinance, we are seeing neighboring counties imposing a 12 plant limit per parcel. Also, AB 243 indicates that the state requirement theme doesn't apply to patient cultivation if it doesn't exceed 100 sq. ft. and is for personal use only.

Mr. Curtis further reviewed when the 100 sq. ft. requirement goes into effect, noting the language is ambiguous as to whether it goes into effect in 2016 or 2018. Regardless, once this requirement goes into effect counties cannot go beyond the 100 sq. ft. limit. The question is whether the Board wants to modify the current ordinance to be consistent with legislation, if so he would suggest 12 plants not to exceed 100 sq. ft.

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Supervisor Adams indicated that the Committee promised to review the current ordinance after one year, so this combined with the new state legislation is why we are here now.

Sheriff Standley indicated that the previous ordinance was a failure and he takes blame in part for not having enough staff to keep up with the grows in the County; he didn't have enough staff to address the complaints received by the department.

Deputy Mike Fischer added that the department saw a huge increase in grows since prior years.

Additional comments were received from the public regarding concerns with illegal grows; possibly implementing licensing in order to cover the County's costs; and imposing fines for not following the law.

Supervisor Adams explained it seems Sierra County is extreme with respect to the current plant count and marijuana is becoming a nuisance to neighbors. It also seems that marijuana is no different than any other land use issue. He would like to come up with a bifurcated system depending on the lot size.

Supervisor Adams further suggested amending the ordinance to allow outside grows on parcels that are 2 acres or more and up to 10 plants within 100 sq. ft. If the parcel is less than 2 acres, growing is limited to indoor only, not in a building used for human habitation, and it must be a legitimate building. The County would also allow growing for someone else so long as they meet the requirements of a caretaker and live on the property. Supervisor Adams noted he wants to allow people to provide for themselves, but not be an attractive nuisance to other counties.

Discussion continued regarding the proposed changes; what constitutes a caregiver; land use issues with respect to a number of unpermitted structures, wells, water diversions and drainage, grading issues, and limited staffing to address all of the impacts created by this ordinance; the new legislation requirements of no more 100 sq. ft. per patient per parcel unless the County allows commercial grows; and concerns with respect to keeping the plant canopy within 100 sq. ft.

Further discussion ensued regarding the need to have clear definitions in the ordinance with respect to a legal parcel, caregiver, patient, etc.; allowing up to two patients per parcel and 10 plants per contiguous 100 sq. ft. per patient; the plant count being critical for enforcement purposes; concerns that a 10 x 10 area only produces between 11 lbs. to 31 lbs. of marijuana which won't meet the medical needs of some patients; and recommending a greenhouse be considered an outdoor grow on 2 acres or more.

Following discussion, the Committee recommended County Counsel work with the Sheriff and Planning Director to draft a revised ordinance for consideration by the full Board on February 2, 2016, with the suggested changes of 10 plants within 100 sq. ft. per patient, up to two patients per parcel, outdoor grows allowed on parcels of 2 acres or more, and indoor grows only on parcels less than 2 acres and must be in a legitimate building not used for human habitation.

With no further discussion, the Committee adjourned the meeting at 11:50 a.m.