



Roseville Coalition Of Neighborhood Associations
Maidu Neighborhood Association
Roseville, California
Board Minutes

Tuesday, July 26, 2011

1. Meeting called to order at: 7:05 PM

Present: David Allen, President
Scott Reid, Vice President
Geoff Kragen, Secretary
Mary Steele, Treasurer

Shirley Brown
Jim Kidd

Absent: Mike Bardini
Bonnie Blanco

Mark Hernandez
Dave Steele

Neighbor(s): Larry Arkus
Ken Webb

Fran Webb

2. Minutes of previous meeting: Approved

3. Treasurer's report: Beginning July Balance: \$2,203.34. Ending July Balance: \$2,203.34.

a. Bank Change: US Bank account opened today. Mary will need to take other members in to get signatures. US showed an extra \$100 in the deposit. Mary will follow up.

b. Audit should be performed by Secretary in August for the September Board Meeting.

4. RCONA report:

- a. Fire Department wants to attend neighborhood meetings. Dave A. will be contacted to set a date.
- b. Effective July 1st a carbon monoxide detector is required in every home. Only one is required per single story house. A two story house requires two.

5. Police report: None present.

6. Old Business:

- a. National Night Out plans: (menu, activities, volunteers): Geoff will take care of L & L and put it on a credit card to be reimbursed. Because Target and the public service people will probably be eating we are going to go to the bigger food order, \$441.
- i. Shirley will purchase from Costco salad stuff as well as eating utensils, (plates, forks, knives, napkins), lemonade and ice tea mix. She will also bring a small table for photos. Jim is bringing cups. He is also providing leis, the banner, and one table.

- ii. We are paying \$35 to the “snow cone lady.” David didn’t know if the “bird lady” was coming because she hasn’t gotten back to him.. Police and Fire taken care of. Hula dancers are coming.
- iii. David A. has an igloo for water and extension cords. Hopefully, we’ll get two other igloos from Carl’s Jr and/or McDonalds. Ken has two six foot tables. Mary is bring a CD player and table cloths, Geoff is providing Hawaiian music. Those who are volunteering should be there around 5:00 pm.
- iv. Rob from the police department told Jim ADP wants to come. He will follow up with some questions as to ADP’s involvement with NNO and why the city has asked us to have them attend. Based on the information gathered the board will decide whether or not to include them.
- v. Parking may be an issue because of a baseball tournament. We’ll send a watch-mail reminder of the event and the parking issue.

7. New Business:

- a. Maidu Museum speaker next month: Scott will let the individual know they are welcome.
- b. House number painting: “Just say no.”
- c. Elections: The individuals who are up for election are: David Allen, Shirley Brown, Geoff Kragen, and Mark Hernandez. Dave A. will contact Mark and Bonnie to see if they have any intention of becoming active again.
- d. Marijuana gardens: An extended discussion was held. The conclusion came down to two issues. First, the board doesn’t know the general position of the neighborhood at large. And second, we generally only address city issues as they impact the association members specifically. We do not know if that is the case here. Consequentially, the following action was taken.

Motion: 7-1: Geoff moved, Mary seconded, that we abstain from taking a position. Approved.

- e. MNA Logo: Scott’s daughter wants to look at redesigning the logo. Board says thanks and we’d be happy to see what she comes up with.

8. Announcements and Remarks: Fran noted the library will celebrate on Saturday the 6th being open again on Saturdays. The celebration will be starting at 12:30. She will contact them and see if they want to promote the event at the NNO.

Remember that next month we’ll be meeting back at Sargeant Elementary School.

9. Adjourn: 8:24 PM

**Maidu Neighborhood Association ~ Newsletter
Meeting Minutes**

1. Newsletter meeting called to order: 8:25 PM
 - a. Due date: Friday, August 6th
 - b. Topics/Assignments:
 - i. NNO recap ~ David A.
 - ii. Maidu Museum speaker next month ~ Scott
 - iii. Elections ~ Geoff
 - iv. Movie Night Recap ~ David S.
 - v. Library (possibly) ~ Fran
2. Adjourn: 8:28 PM



COUNCIL COMMUNICATION

4092

City Clerk Use Only

DATE: June 2, 2011

TITLE: Cultivation of medical marijuana

CONTACT: Dee Dee Gunther, Administrative Analyst, 774-5015,
ddgunther@roseville.ca.us

Meeting Date: June 15, 2011

SUMMARY RECOMMENDATION

Introduce for first reading an ordinance adding Chapter 9.96 to Title 9 of the Municipal Code, regulating marijuana cultivation; or after discussion, take no action or provide other direction to staff. The ordinance would, if adopted, prohibit all outdoor cultivation of medical marijuana; limit indoor cultivation by authorized growers to an area not exceeding 50 square feet unless the City Manager made a determination more space was authorized; limit cultivation to the grower's primary residence; and other restrictions. Violations would be declared public nuisances, subject to administrative fines.

BACKGROUND

Residents have expressed concerns about backyard medical marijuana gardens in their neighborhoods, and at Council's request, staff is bringing the issue to them for discussion and consideration of measures that can be taken.

The Police Department's Vice and Narcotics Enforcement Team (VNET) receives many complaints from residents throughout the city about their neighbors cultivating marijuana. Usually residents have seen marijuana plants in outside gardens or patios, and wonder if they're legal. Another concern is the "skunky" smell that marijuana exudes during part of the growing cycle. VNET detectives always investigate the complaints, and usually find that the plants are owned by documented medical marijuana patients, in quantities within state guidelines for personal cultivation. Another common concern is that outdoor marijuana plants present an easy target for thieves, and sometimes, in other jurisdictions, have sparked robberies and other violent incidents.

One remedy would be for Council to enact an ordinance regulating the cultivation of medical marijuana, and prohibiting outdoor grows. The City Attorney's office has drafted such an ordinance for Council's consideration. The purpose of the ordinance would not be to interfere with a patient's right to medical marijuana as authorized under California law, nor to create a right to grow marijuana outside the boundaries of state law. However, it would regulate otherwise legal cultivation in certain ways to preserve the health, safety and welfare of the community. The major components of the ordinance are:

Routing Approval:

_____ ASD _____ ACM _____ DDG _____ ATTY

AGENDA ITEM

8.3

- All outdoor cultivation of marijuana would be prohibited in Roseville. Cultivation would only be authorized in fully enclosed and secure structures, with foundations, solid walls and a roof.
- Indoor cultivation would be limited to an area not exceeding 50 square feet, and not more than ten feet tall. Anyone who wanted a larger cultivation area would be required to provide additional information (such as documentation that more than one authorized grower lives at the residence, and written permission from the property owner if someone other than the marijuana user), and obtain a prior written determination from the City Manager or his designee authorizing the larger growing area.
- Cultivation lighting would be limited to no more than 1200 watts in total, and the use of gas products (CO2 or butane, for example) for cultivating or processing marijuana would be prohibited.
- The cultivation must not affect the health or safety of nearby neighbors by creating dust, glare, smoke, noise, or odor.
- Only growers authorized by state law would be allowed to cultivate marijuana, and their cultivation areas must be in their primary residence. In other words, growers couldn't buy, rent or use other homes or buildings for marijuana cultivation.
- Growers must still maintain a kitchen, bathrooms, and primary bedrooms for their primary uses, and must not use them exclusively for marijuana cultivation.
- The ordinance would prohibit any evidence of marijuana cultivation to be visible from the public right of way.
- Violations of the ordinance would not be prosecuted as crimes, but would be handled as declarations of public nuisances through the City's administrative hearing process. The ordinance includes a detailed administrative appeals process. Sustained violations that go uncorrected after a final finding and notice would be punishable by a \$500 daily fine.

Discussion

Several California jurisdictions have banned outdoor cultivation of marijuana and restricted the size and other aspects of indoor cultivation. Here are a couple of recent examples from other jurisdictions.

In September 2010, Fresno County, in response to several violent incidents involving outdoor marijuana gardens, enacted an emergency ban on outdoor cultivation in the unincorporated areas of the county. The ordinance was challenged by growers in court. The Court upheld the ordinance as a land use matter, but gave growers until November 30 to harvest existing outdoor plantings.

In December 2010, the Rocklin City Council unanimously enacted an ordinance similar to the one drafted for Roseville Council's consideration. Rocklin's ordinance generated little opposition from the public, but a few citizens spoke against it. They argued that bringing outdoor grows inside created financial and other hardships for medical marijuana patients, including a significant loss of indoor space and higher electricity bills. They also argued that the space restrictions established in the ordinance for indoor grows were inadequate to meet their medical needs.

FISCAL IMPACT

No fiscal impact is anticipated.


ECONOMIC DEVELOPMENT/JOBS CREATED

Not applicable.

ENVIRONMENTAL REVIEW

This ordinance is not considered a "project" as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines §15378). Consequently no CEQA action is required.

Respectfully submitted,



Dee Dee Gunther, Administrative Analyst



Daniel Hahn, Police Chief

APPROVED:



Ray Kerridge
City Manager

ORDINANCE NO. ____

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE ADDING
CHAPTER 9.96 TO TITLE 9 OF THE ROSEVILLE MUNICIPAL CODE REGARDING
MARIJUANA CULTIVATION

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. Chapter 9.96 of Title 9 of the Roseville Municipal Code is hereby added to read as follows:

Chapter 9.96

MARIJUANA CULTIVATION

9.96.010 Purpose and applicability.

The City Council adopts this chapter based on the following:

A. Purpose. The purpose and intent of this section is to regulate the cultivation of marijuana in a manner that protects the health, safety and welfare of the community. This section is not intended to interfere with a patient's right to medical marijuana, as provided for in California Health and Safety Code Section 11362, nor does it criminalize medical marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law. This section is not intended to give any person independent legal authority to grow

marijuana; it is intended simply to impose zoning restrictions on the cultivation of marijuana when it is authorized by California state law for medical or other purposes.

B. Applicability. No part of this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation of marijuana in the City of Roseville is controlled by the provisions of this chapter of the Municipal Code.

9.96.020 Definitions.

For the purposes of this chapter, the words and phrases shall have the same meaning respectively ascribed to them by this section:

A. "Authorized Grower" means a person who is authorized by federal or state law to grow marijuana for personal use or medical use in compliance with local, state or federal laws authorizing such marijuana cultivation.

B. "Cultivation" means the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.

C. "Enforcement Officer" means the Chief of Police, City of Roseville Code Enforcement Officer, or any designee of either of them.

D. "Fully Enclosed and Secure Structure" means a space within a building that complies with the California Building Code, as adopted in the City of Roseville, or if exempt from the permit requirements of the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof; a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments; is secure

against unauthorized entry; and is accessible through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily penetrated or breached, such as two inch by four inch (2" x 4") nominal or thicker studs overlaid with three-eighths inch (3/8") or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products, do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, Electrical, and Fire Codes as adopted in the City of Roseville.

E. "Immature Marijuana Plant" means a marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

F. "Indoors" means within a fully enclosed and secure structure as that structure is defined above in subsection D.

G. "Mature Marijuana Plant" means a marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

H. "Outdoor" means any location within the City of Roseville that is not within a fully enclosed and secure structure.

I. "Parcel" means property assigned a separate parcel number by the Placer County assessor.

9.96.030 Outdoor Cultivation

It is hereby declared to be unlawful, a public nuisance, and a violation of this Chapter for any person owning, leasing, occupying, or having charge or possession of any parcel

within any zoning district in the City of Roseville to cause or allow such premises to be used for the outdoor cultivation of marijuana plants.

9.96.040 Cultivation of Marijuana; Regulations for Residential Zones

A. When authorized by state law, an individual shall be allowed to cultivate marijuana in residential zones, subject to the following regulations:

1. The marijuana cultivation area shall not exceed 50 square feet and not exceed ten feet (10') in height per residence.
2. Marijuana cultivation lighting shall not exceed 1200 watts total.
3. The use of gas products (CO₂, butane, etc.) for marijuana cultivation or processing is prohibited.
4. From a public right of way, there shall be no exterior evidence of marijuana cultivation either within or outside the residence.
5. The residence where the marijuana cultivation occurs shall be the primary residence of the authorized grower.
6. The authorized grower shall not participate in marijuana cultivation in any other residential location within the City of Roseville.
7. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be primarily or exclusively for marijuana cultivation.
8. The marijuana cultivation area shall be in compliance with the current edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)), as adopted by the City of Roseville.

9. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

10. The marijuana cultivation area shall not adversely affect the health or safety of the occupants of other property by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and shall not be maintained so as to constitute a hazard due to use or storage of materials, processes, products or wastes.

B. Any proposed marijuana cultivation by an authorized grower that does not meet the grow area standard of Section 9.96.040(A)(1) shall require the prior written determination of the City Manager, or his or her designee, of the need for additional cultivation area.

1. Documentation, such as a physician's recommendation or verification of more than one authorized grower living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible.

2. The request for determination shall include written permission from the record property owner and no determination and authorization for additional area of marijuana cultivation shall issue without the written permission of the record property owner.

3. An approved marijuana cultivation area that exceeds 50 square feet shall conform to the following standards:

- a. Shall be in compliance with Section 9.96.040(A) (1)-(10) above.
- b. The marijuana cultivation area shall not exceed an additional 50 square feet for a total of 100 square feet per residence and shall not exceed ten feet (10') in height per residence.

4. Any written determination of the need for additional cultivation area shall be issued for a period not exceeding one year, but may be renewed upon review of a subsequent submittal of the required documentation.

9.96.050 Indoor Cultivation of Marijuana Restricted To Authorized Grower

It is hereby declared to be unlawful, a public nuisance and a violation of this Chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Roseville to cause or allow such parcel to be used for the cultivation of marijuana, unless the person is authorized by state law to grow marijuana, and such authorized grower is complying with all requirements of this section.

9.96.060 Public Nuisance Prohibited

It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Roseville to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces:

- A. Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public.
- B. Repeated responses to the parcel from law enforcement officers.
- C. A repeated disruption to the free passage of persons or vehicles in the immediate neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public.

D. Any other impacts on the neighborhood which are disruptive of normal activity in the area.

9.96.070 Violation

Cultivation of marijuana on any parcel within the city that does not comply with this Chapter constitutes a violation of the zoning ordinance and is subject to the penalties and enforcement as provided in Section 9.96.080 of this Chapter.

9.96.080 Enforcement.

A. Public Nuisance. Violation of this section is hereby declared to be a public nuisance.

B. Abatement. A violation of this section may be abated by the City Attorney by the prosecution of a civil action for injunctive relief and by the summary abatement procedure set forth in subsection C of this section.

C. Summary Abatement Procedure.

1. The Enforcement Official is hereby authorized to order the abatement of any violation of this section by issuing a Notice and Order to Abate which shall:

a. Describe the location of and the specific conditions which represent a violation of this section and the actions required to abate the violation.

b. Describe the evidence relied upon to determine that a violation exists, provided that the Enforcement Official may withhold the identity of a witness to protect the witness from injury or harassment, if such action is reasonable under the circumstances.

c. State the date and time by which the required abatement actions must be completed.

d. State that to avoid the civil penalty provided in subsection C.4. of this section and further enforcement action, the Enforcement Official must receive consent to inspect the premises where the violation exists to verify that the violation has been abated by the established deadline.

e. State that the owner or occupant of the property where the violation is located has a right to appeal the Notice to Abate by filing a written notice of appeal with the City Clerk no later than seven (7) calendar days from the service of the notice. The notice of appeal must include the appellant's address, telephone number, fax number (if available), and e-mail address (if available). The City may rely on any of these for service or notice purposes. If an adequate written appeal is timely filed, the owner or occupant will be entitled to a hearing as provided in subsection C.3. of this section.

f. State that the order to abate the violation becomes final if a timely appeal is not filed or upon the issuance of a written decision after the appeal hearing is conducted in accordance with subsection C.3. of this section.

g. State that a final order of abatement may be enforced by application to the superior court for an inspection and/or abatement warrant or other court order.

h. State that a final order to abate the nuisance will subject the property owner and the occupant to a civil penalty of five hundred dollars (\$500.00) for each day that the violation continues after the date by which the violation must be abated as specified in the Notice and Order to Abate. The penalty may be recovered through an ordinary

civil action, or in connection with an application for an inspection or nuisance abatement warrant.

2. The notice described in subsection C.1. of this section shall be served in the same manner as a summons in a civil action in accordance with Article 3 (commencing with section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure, or by certified mail, return receipt requested, at the option of the City. If the owner of record cannot be found after diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of not less than ten (10) days and publication thereof in a newspaper of general circulation pursuant to Government Code section 6062.

3. Not sooner than ten (10) calendar days after a notice of appeal is filed with the City Clerk, a hearing shall be held before the City Manager or a hearing officer designated by the City Manager to hear such appeals. The appellant shall be given notice of the date, time and place of the hearing not less than five (5) days in advance. The notice may be given by telephone, fax, email, or personal service or posting on the property and shall be effective when given. At the hearing, the Enforcement Official shall present evidence of the violation, which may include, but is not limited to, incident and police reports, witness statements, photographs, and the testimony of witnesses. The property owner and the occupant of the property where the violation is alleged to exist shall have the right to present evidence and argument in their behalf and to examine and cross examine witnesses. The property owner and property occupant are entitled at their own expense to representation of their choice at their own expense. At the conclusion of the hearing, the City Manager or hearing officer shall render a written decision which may be served by regular first class mail on the appellant.

4. A final Notice and Order to Abate the nuisance will subject the property owner or owners and any occupant or occupants of the property who are cultivating marijuana in violation of this section to a civil penalty of five hundred dollars (\$500.00) for each day that the violation continues after the date by which the violation must be abated as specified in the final Notice and Order to Abate.

5. The Enforcement Official or the City Manager or hearing officer hearing an appeal pursuant to subsection C.3. of this section may reduce the daily rate of the civil penalty for good cause. The party subject to the civil penalty shall have the burden of establishing good cause, which may include, but is not limited to, a consideration of the nature and severity of the violation, whether it is a repeat offense, the public nuisance impacts caused by the violation, and the violator's ability to pay. The daily penalty shall continue until the violation is abated. The penalty may be recovered through an ordinary civil action, or in connection with application for an inspection or nuisance abatement warrant.

9.96.090 Penalties Not Exclusive

The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any other criminal, civil, or administrative remedy or penalty authorized by, or set forth in, the Roseville Municipal Code. None of the penalties or remedies authorized by, or set forth in, the Roseville Municipal Code shall prevent the City from using any other penalty or remedy under state statute which may be available to enforce this section or to abate a public nuisance.

SECTION 2. This ordinance shall be effective at the expiration of thirty (30) days from the date of adoption.

SECTION 3. The City Clerk is hereby directed to cause this ordinance to be published in full at least once within fourteen (14) days after it is adopted in a newspaper of general circulation in the City, or shall within fourteen (14) days after its adoption cause this ordinance to be posted in full in at least three (3) public places in the City and enter in the Ordinance Book a certificate stating the time and place of said publication by posting.

PASSED AND ADOPTED by the Council of the City of Roseville this ___ day of _____, 20___, by the following vote on roll call:

AYES COUNCILMEMBERS:

NOES COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

MAYOR

ATTEST:

City Clerk