

FALLBROOK COMMUNITY PLANNING GROUP

AD-HOC CANNABIS ORDINANCE COMMITTEE

Chair Eileen Delaney
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Regular Meeting
Monday, April 12, 2021
5:30 PM
Zoom Meeting

Meeting ID: 398 169 8290 - Passcode: 694812 - Dial in by Phone: 669-900-9128
<https://us02web.zoom.us/j/3981698290?pwd=RkFMc1lCN0wxWjVaY2FTSENkOG9Udz09>

OFFICIAL MINUTES

Adopted May 10, 2021

ATTENDANCE:

PRESENT: Committee Chair Eileen Delaney, Committee Secretary Ross L. Pike, Jeniene Domercq, Victoria Stover, Stephani Baxter, Kim Murphy, Steve Brown, Angela King, Denise Shadle, Jim Mendelson, Tyler Geffeney, Robbert Bruins

ABSENT: Robyn Dahlson (excused)

The meeting was called to order at 5:30 PM by Committee Chair Delaney.

1. **PUBLIC FORUM.** Opportunity for members of the public to speak to the Ad-Hoc Cannabis Ordinance Committee on any subject matter within the Committee's jurisdiction but not on today's agenda. *Three-minute limitation. Non-discussion and non-voting item.*

No public comment was given.

2. Approval of previous meeting minutes. **Voting item.**

Motion by Stover to approve minutes. Motion passes 12-0.

3. Discussion and recommendations for the Social Equity portion of the ordinance. **Ad-hoc Cannabis Ordinance Committee. Community input. Voting item.**

Chair Delaney asks Mendelson to share a prepared statement on the topic. Mendelson commented on other states, counties, and communities' use of social equity programs with regard to cannabis ordinances that they are tied to "blue states and blue pockets." Speaking to his experience in the criminal justice system, Mendelson states that social equity programs are giving convicted persons a "free pass" that have in the past violated a law. Mendelson states that "crooks will find another trade" with cannabis legalization. Mendelson referenced zoning information in Oceanside in comparing the availability of cannabis shops in relation to In n Out burger restaurants.

Delaney clarifies the role of the committee today is to review the social equity portion of the ordinance being adopted by the Board of Supervisors. "Do we agree with it, disagree with it, want to change it, don't think we like it, or what suggestions do we have?"

Geffeney questions why Mendelson went first stating he is in agreement with Mendelson. Geffeney states that “whether we consider the past laws were just or not, do we give preferential treatment to people nevertheless chose to flaunt the laws of any particular industry? This is one in particular that I would be uncomfortable with. I’m a big fan of the idea of lifting all people up to higher places and correct disparities in opportunity. I’m a big believer of equal opportunity for all. The application of that is very difficult.”

Delaney states she asked Mendelson to prepare a statement with his experience working nearly 20 years as a distinct attorney in Orange County.

Delaney states the Office of Equity and Racial Justice along with PDS can jointly develop the framework and strategy for the social equity portion of the ordinance. “I have some concerns about that.”

Bruins questions if San Diego County decides that social equity is to be a part of the permitting process, do we even have a stake in it. Delaney states that is unclear. Bruins clarifies that we are making recommendations to what the county is already working on. Delaney states this is correct and that we are “expressing our feelings.”

Delaney states that regardless of people’s position on cannabis, people should not have “special privileges.”

Murphy reviews the definition of social equity to prioritize the needs of minority neighborhoods that have been unjustly segregated from the ability to do something. Murphy states the county is taking that definition and applying it to those who have violated the law in the past. Murphy states that large companies are producing cannabis. California has set aside about \$37 billion to address social equity. Murphy states this is taking taxpayer dollars to support those who cannot compete with MSO (multi-state operators). Murphy states that California and companies that are involved should be offering training and potential franchise opportunities. Murphy states individuals cannot compete against MSO’s. Murphy compares Fallbrook Coffee Company to Starbucks, stating that an individual cannot compete at the same level. Murphy states, “I am not in favor of it. It is simply a soundbite that is going to fail at the expense of the taxpayer. Even in its purest sense, why would we support it?” Delaney asks Murphy to summarize her point into two sentences. Murphy states, “There is no capital for cannabis. There are no banks that are going to loan for cannabis. If we are going to develop a social equity component, we need to get the MSO’s behind it to support it. Then it needs to be evaluated on a case-by-case basis. They will determine who is going to be legitimate and play by the rules.”

Bruins states you can’t say “unfairly, because back then the laws were the law. We are giving special privilege to those who chose to flaunt the law.” Bruins says “we need to give everybody equal opportunity. In this era of political correctness, we are afraid to say that.” Bruins states, “It is not our job to fall in with the masses. It is our job to say what we think is right and what we think is wrong. If we don’t believe this then we need to say that.”

Mendelson states he is not familiar with MSO's, but that it is on them and not San Diego County.

Delaney reads information from the letter about the Bureau of Cannabis Control. After asking if anybody is aware of this government organization, Delaney states we should know more about them before we make any recommendations.

Stover states that "talking to people around me, some who were colored and some who were not, thought that it was racist. That they can get all the loans they want, but if they didn't follow the law before, how do we know they will follow the law now? If this is going to work, the MSO's are going to have to do it."

Pike states the website for the California Bureau of Cannabis Control is bcc.ca.gov and that on their main page is the number of active licenses and different types.

Shadle states that when she reviewed the original letter from the Board and that the "social equity and racial justice is literally thrown in there, in my opinion, to stop any conversation at all. Because basically if you disagree, you are a racist. I find it offensive that they say black and brown communities because it is reverse racism. It feeds into that only skin color, not ability, matters. I just feel like throwing that in there the county can do whatever they want in the unincorporated areas. I feel it is dishonest in what they are trying to do in the unincorporated areas."

King states she, "cannot agree more that it is an emotional topic. To single out people who violated the law, not that people can't change, but if they already exhibited behaviors of illegality, who is to say they won't do it again." King states all of her talking points have already been said. King adds, "If it's going to go through, we have to do everything we can to put into place reasonable limitations."

Delaney asks Linda Wilson, who is attending, to speak. Wilson asks to speak at the end.

Delaney asks Mendelson if he has any "statistics on white versus brown versus black crime statistics." Mendelson says that they do not include race in police reports because it is discrimination "even though [he] doesn't think it exists and he asked Jack Wood if he had any information on that." Mendelson states "that it is not there." Delaney questions that if the information is not there, then how do they have these "facts." Mendelson states "you need to filter out what is and is not true."

Baxter states she agrees with the majority of people who have spoken so far. Baxter asks if there is anybody that can speak to the benefits of a social equity program. Baxter questioned why Delaney asked Mendelson to prepare a statement. "It was a striking bold example of what we are supposed to do tonight. You should give the same opportunity to someone who has been marginalized unfairly by the cannabis opportunity to speak like Jim." Geffeny asked if Baxter is seeking somebody who can speak to the benefits of a social equity portion. Baxter asked for the opposite perspective from Mendelson's experience and prepared a statement.

Delaney states that from “my perspective is you broke the law of the land at the time. You broke the law. You flaunted the law. Now, the laws have changes so we’re going to give you a pass. Well, if you roll that over to other laws that have changed, I’m not sure.”

Pike states, “I am by no means an expert nor have I experienced any of this, but I can share some statistics with the group if you would like?” Delaney says yes. “According to the ACLU, between 2001–2010, over 7 million people were arrested for marijuana which means every 37 seconds, somebody was arrested. And though marijuana use is predominantly equal for use among black versus white, black Americans are 3.73 or nearly 4 times as likely to be arrested for marijuana possession. In some states like Iowa, DC, Minnesota, and Illinois, blacks are 7.5–8.5 times more likely to be arrested for marijuana. It is estimated states waste over \$3 billion on enforcing marijuana laws. I’m just providing statistics that the group just asked for.”

Mendelson asked if there is a situational need here in San Diego County for a social equity program including unincorporated areas like Fallbrook. Pike responded by asking if San Diego County has situational information regarding arrests and race for cannabis-related arrests. Mendelson states that it is on the proponents to provide that information. Delaney states that we want documentation because of Mendelson’s experience that he did not document race information. Mendelson claims that that was just his jurisdiction.

Baxter asks for the County to tell us as to how did they develop the percentages or develop the adoption of the ordinance in the unincorporated areas. Baxter asks if the social equity portion creates and drives an attraction for unincorporated areas to be utilized over other areas. Delaney states that the Board of Supervisors only has the jurisdiction directly relating to the unincorporated areas with this ordinance.

Bruins states, “In my opinion, we are talking about statistics about black and brown people who are more likely to break laws that we now think are unjust. Regardless of that, there is a demographic of some who flaunted those laws. Social equity vastly states that the people who broke the laws are most likely black or brown. Now we are saying that the laws have changed and our minds have changed to now bring the cannabis industry forward to where it is eventually going to go. What we are going to talk about in this committee is if these cannabis dispensaries, farms, or whatever going to follow the law. A lot of people in the community are concerned about their kids getting access to marijuana. By and large dispensaries of alcohol follow the law. You have to apply that same situation to cannabis dispensaries. Now with the social equity portion, people who have a track record of breaking the law are going to get special privileges to open dispensaries. In my opinion, if you have experience violating cannabis laws, then I can’t really expect you to with integrity to honor whatever laws we create in the future. I can’t trust you regardless of your skin color.”

Delaney reminds the committee members that in ordinance with the Brown Act and with our purview, we are only permitted to speak to what is on the agenda with the social equity portion of the agenda.

Pike states that he is able to share the statistics for California from the California Department of Justice in 2019, of the marijuana arrests 41.7% were Latino, 22.3% were black, and 21.3% were white. Delaney asks if anybody has information on convictions.

Domercq states the social equity component “should be a case-by-case issue.” Domeercq states that some people may be able to show that they had a unique situation or have been able to be a law-abiding citizen following their arrest. Domercq stated, “In response to if you can trust someone. If you get traffic tickets, you have to get a lot of them before you aren’t allowed to drive again. Just because you are speeding once or twice, you aren’t told you can’t ever do something again. A case-by-case basis is what makes the most sense to me. I’ve been reading about this. I’m still trying to figure out how this all comes together. I’m still figuring it out.”

Delaney asks if “true social equity is that everybody is treated equally?”

Mendelson states there is a difference between infractions, misdemeanors, and felonies.

Mendelson questions why the Board of Supervisors put the social equity portion in the new ordinance.

Geffeny responds to Domercq stating, “though you don’t lose your license for speeding. What we are saying is we want the speeders to drive the school bus. There is nothing equitable about that. You shouldn’t get preferential treatment.”

King clarifies the difference between equality and equity to answer Delaney’s question. “It’s 2021 and I’d be willing to bet that there are a number of blacks and Latinos who owned businesses in 2020 that went bankrupt because of the pandemic and they apply for a license, but a black or Latino with priors applies and they get priority treatment. It is mind-boggling to me. If you’re going to use minority labels, stop asian hate. It needs to be across the board.”

Murphy states that “they have changed what social equity was supposed to be. If this moves forward, it should not be on the back of the taxpayers. It should be on the back of private business.”

Bruins states, “My understanding is that this gives an advantage to blacks, Hispanics, or browns, or whatever you want to call them regardless of criminal history. It’s based on the color of your skin that you have an advantage.”

Murphy states that “social equity in its purest sense it so be simply creating equity in groups that have been disproportionaely disadvantaged. But, the cannabis ordinance has taken that and is not only looking at people of color, but people who have broken the law in the past.”

Bruins asks, “So if a white person has a criminal history, would these same advantages apply to that white person?” Murphy answers, “They should but the ordinance really only speaks to people of color.” Bruins clarifies, “they are offering two criteria: that you

are black or brown, not yellow or orange or any other color, and you have to have violated the law previously in order to get the advantage?” Murphy answers, “That is how the ordinance reads.”

Mendelson states, “When they push back to the blacks and the browns, they are going to come back to the one common denominator and that is focusing mostly on the communities affected by the decriminalization of cannabis. It comes down to here if we are dealing with communities who are impacted by the decriminalization of cannabis.”

Bruins clarifies, “We are not talking about communities of color, we are talking about those who have been jailed unfairly in today’s standards, but justly by yesterday’s standards. So, you could be a black person but these privileges don’t apply to you unless you’ve broken the laws. So the advantage today is if you violated the law yesterday.”

Delaney read from the Board Letter on the proposed ordinance. Delaney states, “I think it is up for interpretation.”

Delaney states we have a wide range of opinions and asks the board to write a motion that would include our recommendation to the County. We will vote on these and then send them onto the Planning Group.

Pike clarifies that committee members are asked to draft a resolution and then the committee will vote on which one to move forward. Delaney agrees. The committee will hear all of them, can combine them, and can present them to the Planning Group after that meeting. Pike asks all committee members to email their submissions in advance to better prepare the meeting. Baxter clarifies this is the assignment for committee members before the next meeting. Delaney states any information that the committee wants to present to the Planning Group be presented at the next committee meeting.

Geffeny states that is a great idea. Geffeny states there is a majority opinion and that anybody just present which points they want in the resolution.

Delaney asks that committee members email all resolutions to her in advance of the meeting.

Linda Wilson states that we do not know the quota for the County issuing licenses, so we don’t know what that process will look like yet.

Pike asks if Delaney and FPG Chair Jack Wood would be meeting with Supervisor Desmond prior to the committee’s next meeting. Delaney says yes and that this will be a chance for them to ask questions. Delaney says she will get Donald Chase to speak at the next committee meeting to give an update on the ordinance.

Bruins asks what the Board of Supervisors’ vote by each individual supervisor is on the social equity portion of the proposed ordinance.

Geffeny asks what the status is of the field trip is for the committee to attend an agricultural site to be able to speak to the odor of farming.

Pike asks Delaney if she has the contact information for the cannabis industry that spoke to the Fallbrook Planning Group special meeting. The representative said she sent her information to Delaney and Wood at the meeting.

Geffeny asks if any committee members remember what town had all of the indoor growing facilities. Baxter said it was a place on the way to Palm Springs.

Stover states she has reached out to committee member Robyn Dahlson, who is absent today, but has not yet heard back.

Linda Wilson asks that the committee have somebody speak from the perspective that Baxter stated. Wilson reminds us to all have an open mind.

Delaney asks that all committee members send their resolutions to her so that she can submit them to Pike in advance of the next meeting.

Delaney thanks Mendelson for preparing his statement.

4. Adjournment.

The meeting was adjourned at 6:59 PM.

Respectfully submitted,

A handwritten signature in blue ink that reads "Ross L. Pike". The signature is written in a cursive style with a large initial "R" and "P".

Ross L. Pike
Committee Secretary