



AGENDA

MEETING: Regular Meeting
TIME: Wednesday, December 16, 2015, 4:00 p.m.
LOCATION: Room 16, Tacoma Municipal Building North
733 Market Street, Tacoma, WA 98402

A. Call to Order and Quorum Call

B. Approval of Agenda

C. Approval of Minutes – Regular Meeting of December 2, 2015

D. Public Comments – Comments must be pertaining to items on the agenda and limited to up to three minutes per speaker.

E. Discussion Items

1. Environmental Action Plan

Kristi Lynett from the City's Office of Environmental Policy and Sustainability will give a presentation on the status of the Environmental Action Plan and Performance Measure Report. Staff will provide an update on the plan development process to date, the proposed plan framework, and the stakeholder and public engagement efforts.

(See "Agenda Item E-1"; Stephen Atkinson, 591-5531, satkinson@cityoftacoma.org)

2. Marijuana Regulations

Provide an overview of the recommended changes to the code and pertinent supporting information.

(See "Agenda Item E-2"; Molly Harris, 591-5383, mharris@cityoftacoma.org)

F. Communication Items & Other Business

(1) Planning Commission meeting, January 6, 2015, 4:00 p.m., Room 16; agenda includes (tentatively): Tacoma Mall Neighborhood Subarea Plan and 2016 Annual Amendment.

G. Adjournment





MINUTES (Draft)

TIME: Wednesday, December 2, 2015, 4:00 p.m.
PLACE: Room 16, Tacoma Municipal Building North
733 Market Street, Tacoma, WA 98402
PRESENT: Chris Beale (Chair), Stephen Wamback (Vice-Chair), Meredith Neal
Anna Petersen, Brett Santhuff, Dorian Waller
ABSENT: Donald Erickson, Scott Winship

A. CALL TO ORDER AND QUORUM CALL

Chair Beale called the meeting to order at 4:08 p.m. A quorum was declared.

B. APPROVAL OF AGENDA

Brian Boudet, Planning Services Division Manager, requested that the agenda be amended to move Item E-2 ahead of Item E-1. The agenda was approved as amended.

C. APPROVAL OF MINUTES

The minutes of the regular meeting on November 4, 2015 were reviewed and approved as submitted.

D. PUBLIC COMMENTS

No members of the public came forward to provide comments.

E. DISCUSSION ITEMS

1. Marijuana Regulations

Molly Harris, Planning Services Division, provided a review of new State laws, the Washington State Liquor and Cannabis Board's (WSLCB) draft rules, and the key issues for potential amendments.

State Law changes were discussed. Ms. Harris reported that the Second Substitute Senate Bill 5052 was integrating the medical marijuana market into the established recreational system and created "cooperatives" that would allow up to four people to share responsibility for production and processing for medical use. Ms. Harris noted that the tentative recommendation made to City Council was to ban cooperatives due to issues with collective gardens. It was noted that there was a requirement that the members of each cooperative be licensed by the state with a mandatory waiting period for replacing any members. Ms. Harris reported that 2E2SHB 2136 primarily concerned taxation and would provide more sharing of state taxes with local jurisdictions.

City Council comments to the WSLCB were discussed. Ms. Harris noted that staff had provided the following comments and recommendations on the draft rules:

- Provide better public notifications. Ms. Harris reported that the City had asked that the State use a 1000 foot radius for public notice mailings. Ms. Harris noted that the number recommended by staff was similar to what was used in zoning permit applications and the State buffer requirement.
- Establish a cap on retail stores. Ms. Harris commented that there was currently a cap based on population and that staff wanted a cap on both recreational and medicinal retailers.
- Better controls on "nuisance" operators. Mr. Harris said this recommendation concerned restricting people with code and civil violations from being able to obtain a license.

- Require clearly labeled packaging. Ms. Harris commented that it is desirable for packaging for medicinal marijuana products to be consistent with the current retail packaging.
- Provide more local funding. Ms. Harris commented that the City is asking for funding due to time spent on enforcement, writing codes, and shutting down unlicensed medical storefronts.
- Ensure strict enforcement and strong penalties. Ms. Harris noted that things like sign code and zoning code were not strictly enforced.
- Ensure Compliance with all local codes before opening. Ms. Harris noted examples of retail storefronts not complying with signage code and transparency requirements.
- Restrict and control “cooperatives”. Ms. Harris commented that the State had some restrictions in place for cooperatives, but that enforcement would be difficult.
- Find alternatives to “all cash” business. Ms. Harris reported that this was due to marijuana not being allowed by federal law, thus not being able to use banks, creating more opportunity for crime.

Ms. Harris reviewed key issues and potential changes including maintaining existing “sensitive use” buffers; requiring retail dispersion; a cap on the total number of stores or the number in a defined area; providing a local mechanism to address “nuisance” operators; banning “cooperatives”; maintaining existing production and processing regulations; and modifying the Nuisance Code for consistency.

Maps with 2,500 foot and 5,000 foot dispersions were discussed. Ms. Harris noted the buffers from existing retail marijuana stores, potential areas where new stores could be allowed, and the sensitive use buffer. It was noted that with a 2,500 foot dispersion there could be a maximum of 41 stores, which is why staff would like the Commission to consider recommending both a cap and dispersion requirement. Mr. Boudet reported that the State had provided an opportunity for local jurisdictions to reduce buffers from most sensitive uses.

Commissioners provided the following comments and questions:

- Chair Beale asked about the distinction between cooperatives and individual grows. Mr. Boudet responded that individual grows had been allowed since the late 1980s, while Cooperatives were a smaller version of collective gardens with some additional controls. It was noted that access and distance from retailers had been one of the considerations in allowing cooperatives.
- Vice-Chair Wamback commented on concerns relating to the WSLCB issuing licenses without taking the local zoning into consideration and providing only 20 days for local jurisdictions to provide comments before defaulting to automatic approval.
- Vice-Chair Wamback suggested that for cooperatives, they be consistent with the regulations on home occupations and consider all relevant sections of the code to prevent potential loopholes.
- Commissioner Neal asked if additional buffers or dispersion requirements could be placed on cooperatives. Ms. Harris responded that they could, but enforcement would be difficult.
- Chair Beale noted that he was not in support of dispersion or caps and that he wanted some certainty on cooperatives before they discuss outright banning them because he did not want to remove opportunities for home grow or suppress the market.

2. Capital Facilities Program Update

Christina Watts, Office of Management and Budget, provided a review of the revised process for the development of the Capital Facilities Program (CFP) and the draft schedule and outline of the CFP for 2017-2012.

Ms. Watts reviewed the process that had been used to develop the most recent CFP. The first step had been to open a database and ask project managers to update the existing projects and request new projects. Staff then worked to determine which projects had funding and which had requested funding. The City Manager had then worked with the City Council to propose the projects that would actually receive funding. In October the information had been presented to the Planning Commission. Ms. Watts reviewed that the process had several weaknesses including limited time for review that did not provide opportunity for meaningful participation.

The new proposed process was discussed. Ms. Watts reported that the budget office had been researching examples from other cities and would be creating a new CFP database. The next CFP would begin in spring of 2016 with staff adding new and current projects to the new database. They would be including new prioritization questions to evaluate and rank projects into tiers as they are submitted. In May the projects recommended for inclusion in the CFP would come to the Planning Commission. In June the Planning Commission would hold the CFP public hearing and in July they would forward their recommendation to the City Council. In August and September the recommendations of the Planning Commission would inform funding decisions as the City Manager works with the City Council to build the budget. The completed document would be presented to the Planning Commission in October for feedback that would be incorporated into the next CFP.

Ms. Watts discussed the prioritization criteria and reviewed the tie-in questions that would provide some guidance to prioritize the projects. She reported that when staff submits a new project they would answer a series of ten questions with narrative explanations for any applicable criteria. Projects would be initially sorted into tiers for the Planning Commission's review with lower ranked items to be included in a future projects list with less detail. Ms. Watts noted that the Commission could provide feedback to recommend changing criteria, suggesting additional criteria, or emphasizing certain criteria. Staff would provide the opportunity to reevaluate prioritization criteria each year.

Other changes included improved document readability and improved alignment with the Growth Management Act. Document readability would be improved by changing the structure of the document, adding new sections, and simplifying the project section categories. Other changes would include providing individual project sheets for each project and showing financial information with two tables outlining the funding and spending respectively. They were also working to improve the capital budgeting and the CFP processes. Ms. Watts noted that Level of Services (LOS) standards would be an ongoing discussion to make sure that it continues to inform the CFP.

Ms. Watts discussed how the Transportation Improvement Program (TIP) would be rolled into the CFP process with the Transportation Commission updating the TIP earlier in the year and including TIP in the CFP projects presented to the Planning Commission in May. In July, the Planning Commission would submit the prioritized CFP projects, including TIP projects to the City Council.

F. COMMUNICATION ITEMS & OTHER BUSINESS

Brian Boudet, Planning Services Division Manager, provided updates on the following items:

- The Infrastructure, Planning and Sustainability Committee special meeting would be held on December 9, 2015, at 4:30 p.m. The agenda would include Planning Commission Accomplishments in 2015 and interviews of Planning Commission Candidates.
- The December 16 Planning Commission meeting agenda would tentatively include the Environmental Action Plan, Marijuana Regulations, the Tacoma Mall Neighborhood Subarea Plan, and the 2016 Annual Amendment.
- The City Council had adopted the 2015 Annual Amendment package including the Comprehensive Plan, Infill/Affordability proposals with some minor modifications, and Code Cleanups. The Narrowmoor Conservation District had been removed from the Annual Amendment package and defeated.
- Potential billboard regulations had been discussed at the Council Study Session, including discussion of the recent City Council Public Hearing and the staff alternative concept.

G. ADJOURNMENT

At 5:34 p.m., the meeting of the Planning Commission was concluded.



City of Tacoma
Office of Environmental Policy and Sustainability

**Agenda Item
E-1**

To: Planning Commission
From: Stephen Atkinson, Planning and Development Services
Subject: **Environmental Action Plan Update**
Date of Meeting: December 16, 2015
Date of Memo: December 10, 2015

At the next meeting on December 16, 2015, the Planning Commission will receive an update on the status of the Environmental Action Plan and Performance Measure Report. Staff will present on the plan development process to date, the proposed plan framework, and share the stakeholder and public engagement plan.

The City of Tacoma has adopted a strong environmental policy platform through a number of planning efforts, including the recently adopted Comprehensive Plan, Tacoma 2025 Strategic Plan, the Climate Action Plan, and a number of other resolutions. The Environmental Action Plan is designed to establish clear strategies and actions for improving environmental quality in accordance with adopted goals and policies. It will be focused on all areas of our environment. Additionally, a comprehensive and easily digestible environmental metrics and performance report will be developed that tracks both outcomes and outputs important to Tacoma citizens.

The Office of Environmental Policy and Sustainability is taking the lead on developing the Environmental Action Plan and Performance Measure Report. The Office has hired a contractor, formed an inter-departmental and inter-agency steering committee and is working with the Sustainable Tacoma Commission to assist with developing the products by first quarter 2016.

The Office of Environmental Policy and Sustainability just completed a three part Climate Conversation (www.cityoftacoma.org/climateconversations) series that culminated on December 7th with the Environmental Action Plan public meeting. In addition to engaging citizens in that open house, the Office has created an online survey to generate public feedback on the draft actions. The survey (<http://tacomaeap.publicmeeting.info/>) is open until December 31st. Attached is a frequently asked questions summary.

If you have any questions, please contact Stephen Atkinson, Senior Planner, at (253) 591-5531 or satkinson@cityoftacoma.org.

Attachments (1)

c: Jim Parvey, Assistant Division Manager, Environmental Services

Tacoma's Environmental Action Plan

FAQ

What is going to be in Tacoma's Environmental Action Plan?

The Environmental Action Plan (EAP) will identify specific high-priority actions that the City and its partners should take over the next 5 years to improve quality in all areas of our environment. It will establish measureable targets for those actions and incorporate existing goals and policies. The purpose is to create a comprehensive, yet concise, action plan for the City Council to adopt. The plan will be accompanied by a clear, comprehensive, yearly progress report that tracks our progress to show the results important to Tacoma citizens.

Why do we need one?

Environmental programs and initiatives are managed separately by departments throughout the City. The EAP will help us see, manage and report our performance across all departments in a systematic and uniform way. This plan will also update and expand on the City's 2008 Climate Action Plan which focuses on greenhouse gas emissions. The EAP will be an important tool for implementing the environmental priorities in the City's 2025 Strategic Plan.

Who called for this plan?

The City Manager and the City Council's Infrastructure, Planning, and Sustainability Committee requested the development of this plan and the progress report.

Who is developing it and how is it funded?

The City's Office of Environmental Policy and Sustainability is taking the lead on developing the plan and yearly progress report. OEPS is being assisted by a contractor team and an advisory committee of interdepartmental staff, key partner agencies and members of the Sustainable Tacoma Commission. Funding comes from the City's general fund, Environmental Services and Tacoma Public Utilities.

How is it related to other City plans?

This plan will draw from existing plans and policies, such as the Strategic, Comprehensive, Transportation, Sustainable Materials Management and Integrated Resource plans and the Green Building and Sustainable Purchasing policies. It will identify and fill gaps and document high-priority, specific actions and short-term targets to help us meet our goals. This plan will be coordinated as much as possible with partner agencies' environmental plans and policies to avoid redundancy and promote alignment.

What is the timeline and when can the community provide input?

The plan and performance indicators report should be completed by early 2016. Public engagement, through public meetings and online surveys, will occur in late 2015. Citizens are also encouraged to attend the monthly Sustainable Tacoma Commission meetings to hear updates.

What does it mean for City departments?

Many City departments engage in activities that impact our environment. Sections of the plan will describe actions and targets demonstrating the "City Leading by Example." All departments and staff will be expected to support actions that reduce resource consumption. Departments that engage in projects or programs involving the community will be invited to participate in the stakeholder meetings this autumn centered around: a) Buildings & Energy, b) Transportation & Fuels, c) Materials, d) Natural Systems, e) air and food, and f) Climate Resiliency.



City of Tacoma
Planning and Development Services

**Agenda Item
E-2**

To: Planning Commission
From: Molly Harris, Planning Services Division
Subject: **Marijuana Regulations—Key Issues**
Date of Meeting: December 16, 2015
Date of Memo: December 9, 2015

At the meeting on December 16, 2015, Planning and Development Services staff will provide an overview of key issues and recommended changes to the Land Use Regulatory Code in order to implement the new State laws (2SSB and 2E2SHB 2136), regarding the marijuana market.

Community Based Services and Tacoma Police Department staff will be available to further discuss issues the City has had with the marijuana market, including enforcement and issues with collectives.

Attached to provide context of the subject matter is background information on the State laws, with specific emphasis on medical patients and cooperatives.

If you have any questions, please contact Molly Harris at 253.591.5383 or mharris@cityoftacoma.org

Attachments (1)

c: Peter Huffman, Director

Cannabis Patient Protection Act

The Cannabis Patient Protection Act (CPPA) is 2015 legislation (SSB 5052) that was signed in to law on April 24, 2015. The new law establishes regulations for the formerly unregulated medical marijuana system and aligns it with the existing recreational system.

Liquor and Cannabis Board

- Changes name of the Washington State Liquor Board to the Washington State Liquor and Cannabis Board (LCB).

Medical Marijuana Endorsement

- Establishes a “medical marijuana endorsement” that allows licensed marijuana retailers to sell medicinal marijuana to qualifying patients and designated providers.
 - The endorsement also allows retailers to provide marijuana to qualifying patients and designated providers at no charge.
 - Those who hold the endorsement cannot authorize medical marijuana on the premises or permit health care professionals to authorize at the retail outlet.
- The LCB must adopt rules for the number of retail outlets holding medical marijuana endorsements.
- Retail outlets with medical marijuana endorsements may advertise themselves as such.
- Marijuana retailers (with or without medical marijuana endorsement) may sell products with a THC concentration of 0.3 percent or less.

Licensing

- The bill directs the LCB to develop a priority based application process where applicants who applied for a marijuana retail license prior to July 1, 2014, operated (or were employed by) a collective garden prior to January 1, 2013, have maintained a state and local business license and have a history of paying state taxes and fees will have first priority.
 - Second priority applicants include those who operated (or were employed by) a collective garden prior to January 1, 2013, have maintained a state and local business license, and have a history of paying state taxes and fees.
 - Third priority applicants are those who have none of the experience identified above.
- Applications for retail licenses available October 12, 2015.

Medical Canopy

- Licensed producers must state whether they intend to produce marijuana for retailers with a medical marijuana endorsement, and the amount/percentage of canopy space that will be committed to growing plants for medicinal marijuana (including marijuana concentrates, usable marijuana and marijuana-infused products).

- Directs the LCB to reconsider canopy space limits for the production of marijuana, and increase the percentage of space for producers who intend to grow plants intended for medicinal marijuana.
- If current marijuana producers do not utilize all the canopy space, the LCB can reopen the licensing period for marijuana producers intending to grow plants for medicinal marijuana.

Age Restrictions

- Allows qualifying patients between 18 and 21 who have a valid recognition card to enter retail marijuana outlets and purchase of medicinal marijuana products.

Processing Restrictions

- Restricts the use of butane or other gases for marijuana extraction to validly licensed marijuana processors.

Enforcement

- The LCB may conduct controlled purchase programs to determine whether;
 - Marijuana retailers are selling marijuana to minors
 - Medical marijuana endorsement retailers are selling to minors who do not hold a valid recognition card
 - Until July 1, 2016, collective gardens are providing marijuana to minors
- Violation of this section by a person age 18-20 is a misdemeanor punishable as provided by RCW 9A.20.021.
- Sales to a minor by anyone over 21 years of age is a felony.

Cooperatives

- Eliminates collective gardens starting on July 1, 2016, but allows for the creation of medical marijuana "cooperatives" that may be formed by up to four qualifying patients or designated providers. Cooperatives;
 - Cannot be located within one mile of marijuana retailers.
 - Location must be registered with the LCB.
 - Must be located in a domicile of one of the participants.
 - Are limited to one cooperative per tax parcel.
 - May grow up to the total number of plants authorized for each patient, maximum of 60 plants.
 - Qualifying patients or designated providers may only participate in one cooperative.
 - Are subject to inspection by the LCB and law enforcement.
- The LCB may adopt rules relating to security and traceability requirements for cooperatives.
- Repeals RCW 69.51A.140, which granted cities and counties the authority to adopt and enforce requirements related to medical marijuana, including zoning.

Voluntary Database

- The Department of Health will create, administer and maintain a secure and confidential medical marijuana database, beginning July 1, 2016.
- Database is voluntary and does not violate HIPAA.
- Unregistered patients can still buy, grow and have cannabis and keep their right to use an affirmative defense in court.
- Qualifying patients or designated providers enrolled in the database may obtain:
- Forty-eight ounces of marijuana-infused product in solid form;
 - Three ounces of useable marijuana;
 - Two hundred sixteen ounces of marijuana-infused product in liquid form;
 - Or twenty-one grams of marijuana concentrates.
- A marijuana retailer with a medical marijuana endorsement can add a qualifying patient or designated provider to the database and include the amount of marijuana products the qualifying patient is authorized.
- A marijuana retailer holding a medical marijuana endorsement can access the database to confirm the validity of the recognition card of a qualifying patient or designated provider.
- Records in the database are exempt from public disclosure.

Department of Health Requirements

- Establish and maintain the voluntary medical marijuana database using a third party provider.
- Identify products that qualify as medical marijuana.
- Adopt safe handling and training requirements for retail stores that hold a medical marijuana endorsement.
- Create a standardized authorization form for health care professionals who authorize medical marijuana.
- Establish and create the medical marijuana authorization card.

Cannabis Patient Protection Act (SB 5052)

- Effective July 24, 2015
- Effective July 1, 2016

If a patient is in a collective garden right now or using a particular dispensary, how soon will the status change, and what will new dispensaries and cooperatives look like?

Access to medical marijuana for patients is a significant concern, whether they grow their own or purchase their medicine at a dispensary. The legislation allows cooperative gardens and requires the Liquor and Cannabis Board (LCB) to increase the maximum number of marijuana retail outlets.

Beginning July 1, 2016, up to four patients who are entered in the database can join together to form a cooperative garden. Patients and designated providers who participate in a cooperative may grow the total number of plants authorized for the participants. This is particularly important to patients who live in areas where there is no retail store where they can purchase medical marijuana.

In addition, LCB will award licenses to existing medical marijuana dispensaries who meet reasonable criteria, some of which includes being a collective garden operator who is 21 years or older, has maintained a business license, has a history of paying relevant taxes, has no criminal history and the premise is situated away from schools, playgrounds and other similar buildings. These criteria are intended to retain the expertise that has developed in our state and recognize the businesses that have a record of providing patients with quality products. Retail applicants who receive a license may opt to sell to the general public, only medical patients or both.

These changes go into effect on July 1, 2016. This provides sufficient time to transition to the new system with minimal disruption to patients.

What will the medical marijuana authorization database be like? Will there still be an affirmative defense for people are not entered in the database? Are there new criminal felonies?

The legislation establishes a completely voluntary medical marijuana authorization database. Privacy will be ensured at the highest possible level, and the database does not in any way violate HIPAA.

All patients will still be required to get an authorization from their health care practitioner. Authorizations will be required to be written on a standard form developed by the Department of Health. Designated providers must also receive an authorization from the patient's health care practitioner.

Authorized patients who choose not to register can grow up to four plants and possess 6 ounces of marijuana from those plants. If age 21 or older, they can also purchase up to one ounce of marijuana at licensed retail stores. Qualifying patients who choose not to register will retain the right to present affirmative defense in court, as has been and will

remain the law in our state. Affirmative defense was the foundation of legalizing medical marijuana, central to Initiative 692, passed by the voters in 1998.

Patients age 18 and older who do choose to register can grow up to 6 plants (or up to 15 plants if recommended by the health care practitioner). They can also purchase up to three ounces of marijuana at licensed retail stores with a medical endorsement. Depending on the subsequent legislation still pending (HB 2136 or SB 6062), they may be provided a sales tax exemption on their medical marijuana purchases.

It's crucial that adult patients can weigh the factors of privacy, cost and convenience, and make the choice that's best for them about whether or not to register.

Gov. Inslee vetoed and thus eliminated two of the new felonies. The Act eliminated another felony and only created one for improperly accessing the database and another for creating a false recognition card.

What improvements does the Act make for patients' health? What new conditions are now covered under the Act? How will my doctor provide me an authorization?

The Act's changes (in addition to those above) include:

- Adds post-traumatic stress disorder and traumatic brain injury as qualifying conditions;
- Creates a medical endorsement for retailers that carry medical marijuana products and provides training for retail staff – patients can be confident they are purchasing from knowledgeable sellers;
- Ensures safe products for patients and safe handling in stores;
- Requires a study and recommendations to the Legislature on whether the state should create medical marijuana specialty clinics;
- Provides certainty for practitioners with a statement that they cannot be arrested, prosecuted or disciplined as long as he or she complies with the law. The final legislation does not require practitioners to enter patients into the voluntary database;
- Directs the Dept. of Health to create a standard form for health care practitioners to use when authorizing the medical use of marijuana, in addition to completing an in-person exam and documenting the conditions, similar to any other situation in which a health care practitioner prescribes medicine to patients. Some believe the authorization form could pose a problem under federal law because the practitioner has the option of recommending more plants than the presumptive amount, but it will not. The US Court of Appeals upheld a health care practitioner's right to discuss and recommend marijuana to a patient within the confines of a bona fide patient/practitioner relationship.

What is covered under the emergency section, and what will not go into effect until July 1, 2016?

The legislation included an emergency clause that applies to only a few sections of the bill to allow the Department of Health and LCB to begin some of its work immediately, but patients won't see any change immediately, until well into next year – by July 1, 2016 when the new licenses will become effective and the database will be operational.

The emergency clause does allow LCB to inspect dispensaries and other locations. This was not included to put any current dispensary or collective garden out of business, but to ensure that they are using reasonable standards and especially that they are not selling to minors. We know there are many quality dispensaries offering assistance to patients, and these stores are not the focus. The emergency clause also prohibits patients under the age of 21 from participating in a collective garden (dispensary). However, the patient's designated provider can participate on the patient's behalf.

Which parts of the bill did the governor veto?

Gov. Inslee vetoed Sections 36, 42, 43, 44, 45, 46, and 52. [Full veto letter here.](#)

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