



# **City of Reno Legislative Relations**

## **City of Reno Update on Senate Bill 374 and Medical Marijuana Establishments**

### **Advisory Commission on the Administration of Justice January 27, 2013**

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#### **List of Exhibits:**

- Staff Report on SB374 agenda item (Item J.6) from the September 25, 2013 City Council meeting.
- Excerpt of minutes (Item J.6) from the September 25, 2013 City Council meeting.
- Resolution No. 7896 adopted by the City Council on September 25, 2013.
- Ordinance No. 6311, passed and adopted by the City Council on November 20, 2013, establishing a stay on the acceptance of land use applications related to medical marijuana establishments within the land use jurisdiction of the City of Reno.
- Ordinance No. 6312, passed and adopted by the City Council on January 15, 2014, establishing a stay on the acceptance of business license applications related to medical marijuana establishments operating within the corporate limits of the City of Reno.

JB-1

## STAFF REPORT

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**Date:** September 25, 2013

**To:** Mayor and City Council

**Thru:** Andrew Clinger, City Manager

**Subject:** Staff Report (For Possible Action): Discussion regarding SB 374 and medical marijuana establishments, and possible direction to staff to: (i) not accept any applications related to medical marijuana; and, (ii) amend Title 4 and Title 18 to place a stay on the acceptance of applications related to medical marijuana establishments within the corporate limits of the city.

**From:** Cadence Matijevich, Assistant City Manager

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**Summary:** Under federal law, it is illegal to manufacture, possess, sell and/or distribute marijuana. Under state law, however, the use of medical marijuana is permitted. In 1998 and 2000, the voters in Nevada passed a ballot question amending the Nevada Constitution to allow the medical use of marijuana for certain illnesses and ailments. The Nevada Legislature then enacted a statutory framework to provide immunity from state prosecution to those legally permitted to possess and use medical marijuana. During the 2013 Nevada Legislative Session, the Legislature passed legislation allowing for the operation of medical marijuana establishments. The Health Division of the Nevada Department of Health and Human Services must adopt regulations related to the certification of medical marijuana establishments by April 1, 2014. Because marijuana remains illegal under federal law and because the Health Division's regulations have not been adopted, staff recommends that Council pass a resolution directing staff not to accept any applications related to medical marijuana establishments. Staff further recommends that Council direct staff to bring forth an ordinance in Title 4 of the Reno Municipal Code and to initiate a text amendment to Title 18 of the Reno Municipal Code to place a stay on the acceptance of any business license and/or land use applications related to medical marijuana establishments.

**Background:** In 1998 and 2000, Nevada voters approved and ratified a ballot question that amended the Nevada Constitution to require the Nevada Legislature to enact legislation allowing the medical use of marijuana. The Legislature subsequently enacted NRS Chapter 453A, which contains provisions exempting a person who holds a valid registry identification card from state prosecution for the possession, delivery or production of marijuana and the aiding and abetting another in the possession, delivery or production of marijuana.

During the 2013 Nevada Legislative Session, the Nevada Legislature passed SB374 (2013), which establishes a procedure for a person to obtain a registration certificate from the State of Nevada to operate a medical marijuana establishment.<sup>1</sup> SB374 requires medical marijuana

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<sup>1</sup>SB374 defines a "medical marijuana establishment" as: 1) an independent testing laboratory; 2) a

establishments to be located in commercial or industrial zones or overlays. Moreover, medical marijuana establishments must comply with all local ordinances and rules pertaining to zoning, land use and signage. (*Id.*, at § 10.5(2).) As part of the State's licensure requirements, the applicant is required to obtain proof of licensure from the applicable local government or a letter from the applicable local government certifying that the proposed medical marijuana establishment is in compliance with zoning regulations and all applicable building requirements. (*Id.*, at § 10(3)(a)(5).)

With regard to business licensing of medical marijuana establishments by local governments, SB 374 states:

3. In a local governmental jurisdiction that issues business licenses, the issuance by the Division of a medical marijuana establishment registration certificate shall be deemed to be provisional until such time as:
  - (a) The establishment is in compliance with all applicable governmental ordinances or rules; and
  - (b) The local government has issued a business license for the operation of the establishment. (*Id.*, at § 11.5(3).)

SB374 directs the Health Division of the Nevada Department of Health and Human Services ("Health Division") to promulgate regulations "it determines to be necessary or advisable to carry out the provisions of the bill." *Id.*, at § 20. As of this date, the Health Division has not adopted such regulations but is statutorily obligated to do so by April 1, 2014. At a recent meeting of the Nevada Legislature's Interim Finance Committee, staff from the Health Division testified that they anticipated they would need all of the time available prior the April 1, 2014 deadline to complete the task of adopting such regulations.

#### **Discussion:**

##### **Federal Law and Enforcement--**

Congress enacted the Controlled Substances Act (21 U.S.C. § 801 et seq.) ("CSA") in 1970. The CSA establishes five "schedules" of drugs and other substances designated "controlled substances." (21 U.S.C. §§802(6), 812(a).) For a drug or other substance to be designated a schedule I controlled substance, it must be found that the substance "has a high potential for abuse," have "no currently accepted medical use in treatment in the United States," and "lack accepted safety for use under medical supervision." (21 U.S.C. § 812 (b)(1).) Federal law classifies marijuana as a schedule I controlled substance, deemed to have no accepted medical use. (21 U.S.C. § 812:Schedule I(c)(10).) The CSA prohibits the manufacture, possession, sale, and/or distribution of marijuana. (21 U.S.C. §§ 841, 846; 18 U.S.C. § 2.) While Federal law provides no exceptions for the use of marijuana, medical or otherwise, there has been inconsistency in federal enforcement activities. The Justice Department has issued various memoranda to provide its U.S. Attorneys with guidance.

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cultivation facility; 3) a facility for the production of edible marijuana products or marijuana infused products; 4) a medical marijuana dispensary; or 5) a business that has registered with the Health Division and paid the requisite fees to act as more than one of the aforementioned establishments. SB374, at § 8.3.

On October 19, 2009, the Justice Department issued a memo advising U.S. Attorneys that the Justice Department was committed to making efficient and rational use of its limited investigative and prosecutorial resources (the "Ogden Memo"). The Ogden Memo advised U.S. Attorneys not to focus federal enforcement resources on individuals whose actions were in compliance with state medical marijuana laws.

On June 29, 2011, the Justice Department issued a follow-up memo indicating that the Ogden Memo was never intended to shield individuals engaged in the manufacture, possession, and distribution of marijuana from federal prosecution even in cases where those activities were in compliance with state law (the "Cole Memo"). The Cole Memo also reaffirmed the notion that individuals knowingly engaged in the business of cultivating, selling or distributing marijuana are in violation of the CSA regardless of state law.

On August 29, 2013, in light of ballot initiatives passed in Washington and Colorado that legalize the possession of small amounts of marijuana for recreational use and provide for the regulation of marijuana production, processing and sale, the Justice Department issued a press release stating that it would not challenge those states' laws. The Department simultaneously issued a memo to update the guidance previously provided in the Ogden and Cole Memos (the "Updated Memo"). See Attachment. The Updated Memo explained that the Department's enforcement actions surrounding marijuana have focused on, and will remain focused on, protecting eight specific federal priorities.<sup>2</sup> The Updated Memo further emphasized that states that have legalized marijuana in some manner must establish strict regulatory schemes to ensure the federal enforcement priorities are not undermined. The Updated Memo then directs that so long as states have implemented strong and effective regulatory and enforcement systems, "enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity." Further clarification was provided in the context of commercial marijuana dispensaries. The Updated Memo directs U.S. Attorneys not to solely consider the size or commercial, for-profit nature of an operation but to primarily evaluate on a case-by-case basis whether an operation threatens one of the eight identified federal priorities.

Despite memoranda from the Justice Department regarding enforcement activities, the fact remains that marijuana, even for medical use, is illegal under federal law. The decision of whether to remove marijuana from the schedule I controlled substance list lies solely within the purview of Congress. Senator Patrick Leahy, the Chairman of the Senate Judiciary Committee, has scheduled a hearing on September 10, 2013, to address the conflict between federal and state marijuana laws. While Congress may not take any action after the hearing, it is important to recognize that a dialogue at the national level about the legal dichotomy between state and federal law is imminent.

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<sup>2</sup>The eight federal priorities identified in the Updated Memo include: preventing the distribution of marijuana to minors; preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels; preventing the diversion of marijuana from states where it is legal to other states; preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; preventing violence and the use of firearms in the cultivation and distribution of marijuana; preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and preventing marijuana possession or use on federal property.

**City of Las Vegas--**

At the Las Vegas City Council meeting on August 21, 2013, the Council considered SB374. Much of the discussion centered on the fact that marijuana remains illegal under federal law and that the Health Division has not yet adopted regulations. Recognizing the complicated and difficult issues presented by the decision of whether to allow medical marijuana dispensaries, the Council acknowledged that staff needed adequate time to fully analyze the policy and legal implications. The Council adopted a resolution prohibiting staff from accepting any applications related to the operation of medical marijuana establishments. Additionally, the Council introduced a moratorium on applications related to medical marijuana establishments. If adopted, the moratorium will be in effect for six months from the date of its adoption. On September 3, 2013, the Council's Recommending Committee (consists of Council Members) approved the moratorium. The moratorium is scheduled for a vote before the full Council on September 18, 2013.

Staff's concern with following the City of Las Vegas' approach is that a moratorium implies that action to allow medical marijuana establishments will be taken upon the expiration of the 6-month period. To allow Council adequate time to decide whether it wants to take any action at all, staff recommends implementing a stay on acceptance of any applications until such time in the future when Council decides to revisit its decision.

**Conclusion--**

Medical marijuana policy is in flux at the federal level. The Health Division is still in the process of formulating regulations related to SB374. Until such time as staff and the Council have had the opportunity to conduct a full analysis of the policy and legal implications, staff recommends that Council place a stay on the acceptance of any applications related to medical marijuana establishments. Council may revisit its decision at any time in the future.

**Financial Implications:** None at this time.

**Legal Implications:** SB374 is enabling legislation and does not require the City to take any specific action.

**Recommendation:** Staff recommends Council adopt the following recommendations:

1. Accept staff report;
2. Adopt Resolution No. \_\_\_\_\_ directing staff not to accept any applications related to medical marijuana establishments;
3. Direct staff to prepare an ordinance amending Title 4 of the Reno Municipal Code to place a stay on the acceptance of business license applications related to medical marijuana establishments; and
4. Direct staff to initiate a text amendment to Title 18 of the Reno Municipal Code to place a stay on the acceptance of use, building, or other permits related to medical marijuana establishments.

**Proposed Motion:** I move to approve staff recommendations.

**Attachments:**

- Department of Justice Memo (PDF)

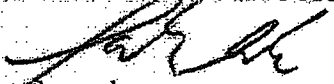


The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

## MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole   
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

Attachment: Department of Justice Memo (2761 : Medical Marijuana Establishments)

Memorandum for All United States Attorneys  
Subject: Guidance Regarding Marijuana Enforcement

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- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.<sup>1</sup>

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

<sup>1</sup> These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

Memorandum for All United States Attorneys  
Subject: Guidance Regarding Marijuana Enforcement

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must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

Attachment: Department of Justice Memo (2761 : Medical Marijuana Establishments)

Memorandum for All United States Attorneys  
Subject: Guidance Regarding Marijuana Enforcement

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As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman  
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch  
United States Attorney  
Eastern District of New York  
Chair, Attorney General's Advisory Committee

Michele M. Leonhart  
Administrator  
Drug Enforcement Administration

H. Marshall Jarrett  
Director  
Executive Office for United States Attorneys

Ronald T. Hosko  
Assistant Director  
Criminal Investigative Division  
Federal Bureau of Investigation

Attachment: Department of Justice Memo (2761 : Medical Marijuana Establishments)



## MINUTES

### Regular Meeting

### Reno City Council

Wednesday, September 25, 2013 • 12:00 PM

Reno City Council Chamber, One East First Street, Reno, NV 89501

Robert A. Cashell, Sr., Mayor

#### Council Members:

Ward 1 – Jenny Brekhus

Ward 4 – Dwight Dortch

Ward 2 – Sharon Zadra

Ward 5 – Neoma Jardon

Ward 3 – Oscar Delgado

At-Large – Hillary Schieve

#### A Introductory Items

A.1 Pledge of Allegiance

A.2 Observance of a Moment of Silence

A.3 Roll Call

Attendee Name	Title	Status	Arrived
Robert Cashell		Present	
Jenny Brekhus		Present	
Sharon Zadra		Present	
Oscar Delgado		Present	
Dwight Dortch		Present	
Neoma Jardon		Present	
Hillary Schieve		Present	
Andrew Clinger		Present	

*The meeting was called to order at 12:09 PM.*

#### A.4 Public Comment

Ken Krater, 226 California Avenue, requested that the Council amend the lot parking regulations.

Margaret Fish, 2855 Idlewild Drive, discussed dead trees and debris along the Truckee River near Foster Drive.

Bishop John Wynn, 1202 Hillboro Avenue, thanked the Council for their support of the Youth Empowered to Succeed (YES) program.

Katie Colling, 635 North Maddux Drive, requested that the Council pull consent agenda items E.13 and E.16 for discussion.

Patricia Kahr, 2855 Idlewild Drive, discussed fire hazards posed by debris and dead trees along the River Walk.

go to the second and third priorities.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Dwight Dortch, Council Member
<b>SECONDER:</b>	Neoma Jardon, Council Member
<b>AYES:</b>	Brekhus, Zadra, Delgado, Dortch, Jardon, Schieve
<b>ABSENT:</b>	Robert Cashell

- J.5 Staff Report (For Possible Action): Update, discussion and potential direction to staff regarding a request for providing an extension to the Emergency Management Services Working Group's negotiations for a "renewed" Emergency Medical Services agreement with the Regional Emergency Management Services Authority. 5:30 PM

**Recommendation:** Staff recommends allowing the Managers an extension of 120 days to continue negotiations for renewing of an Emergency Medical Services agreement with the Regional Emergency Management Services Authority.

**Proposed Motion:** I move to approve staff recommendation.

Robert Chisel, Finance Director, presented an overview of the Staff Report.

COUNCIL MEMBER DORTCH ABSENT AT 5:31 P.M.

The Council upheld the staff recommendation.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Jenny Brekhus, Council Member
<b>SECONDER:</b>	Hillary Schieve, Council Member
<b>AYES:</b>	Brekhus, Zadra, Delgado, Jardon, Schieve
<b>ABSENT:</b>	Robert Cashell, Dwight Dortch

## J.6 Medical Marijuana Establishments

- J.6.1 Staff Report (For Possible Action): Discussion regarding SB 374 and medical marijuana establishments, and possible direction to staff to: (i) not accept any applications related to medical marijuana; and, (ii) amend Title 4 and Title 18 to place a stay on the acceptance of applications related to medical marijuana establishments within the corporate limits of the city. 1:15 PM

**Recommendation:** Staff recommends Council adopt the following recommendations:

1. Accept staff report;
2. Adopt Resolution No. \_\_\_\_\_ directing staff not to accept any applications related to medical marijuana establishments;
3. Direct staff to prepare an ordinance amending Title 4 of the Reno Municipal Code to place a stay on the acceptance of business

license applications related to medical marijuana establishments; and

4. Direct staff to initiate a text amendment to Title 18 of the Reno Municipal Code to place a stay on the acceptance of use, building, or other permits related to medical marijuana establishments.

**Proposed Motion:** I move to approve staff recommendations.

Cadence Matijevich, Assistant City Manager, provided an overview of the Staff Report. She recommended that the City wait until the State's regulatory process had been completed, and suggested that at the conclusion of that process it would be easier to determine whether the regulations were comprehensive enough, and whether additional regulations would be duplicative or cause potential applicants to have to submit the same information to both the City and the State if indeed it were the policy decision of the Council to allow medical marijuana establishments to operate in the City of Reno. Ms. Matijevich also recommended that until such time as those regulations were in place and staff had an opportunity to analyze the operational and legal implications of those regulations that the Council provide direction to staff to 1) place a stay on the acceptance of any business license or land use permit applications related to medical marijuana establishments, and 2) direct staff to initiate text amendments to Title 4 and Title 18 of City Code.

Sam Dehne, Reno resident, presented his views on this issue.

Ted Levatter, 420 Reno Avenue, presented his views on this issue.

Kevin Quint, 505 South Arlington Avenue #110, Executive Director of Join Together Northern Nevada, discussed their work on medical marijuana establishments.

Katie Colling, 635 North Maddux, presented a Public Comment Form, but did not speak.

Council Member Jardon and Ms. Matijevich discussed what other entities within the State were doing in this regard.

Council Member Brekhus said that she did not support the proposal to make Code amendments at this time, and noted that it might be difficult to lift a prohibition once it was in place.

Council Member Dortch said that he favored approving the staff recommendations because it would protect the City from having to accept applications while they were still trying to figure out what the landscape would look like and what the State was going to do.

Council Member Dortch made a motion to uphold the staff recommendations, and the motion was seconded by Council Member Zadra, who said that the City should not accept any until the State had finished their work.

Council Member Zadra and Ms. Matijevich agreed that the soonest a detailed report from the State regarding the regulations would be April 1, 2014.

Council Members Dortch and Zadra requested that staff provide an update as soon as possible after the State concluded their work.

Council Member Brekhus stated that she would not support moving the text amendments forward. She said that the City did not necessary have to act on every application that was submitted for that subscribed activity, and suggested that someone who had a constitutional right to it would point to the prohibition language and claim that the City was depriving them. She stated that the City should just sit back and wait.

Ms. Matijevich discussed the 180-day moratorium the City of Las Vegas placed on accepting applications related to the operation of medical marijuana establishments, and explained that the text amendments would only put a stay (i.e., moratorium) on the acceptance of new applications, not impose a prohibition on medical marijuana establishments.

The Council upheld the staff recommendations.

<b>RESULT:</b>	<b>APPROVED [5 TO 1]</b>
<b>MOVER:</b>	Dwight Dortch, Council Member
<b>SECONDER:</b>	Sharon Zadra, Council Member
<b>AYES:</b>	Zadra, Delgado, Dortch, Jardon, Schieve
<b>NAYS:</b>	Jenny Brekhus
<b>ABSENT:</b>	Robert Cashell

**J.6.2 Resolution No. 7896:** Resolution No. \_\_\_\_\_ (For Possible Action) Resolution of the Reno City Council directing the City Manager not to accept any applications or requests to operate or permit any medical marijuana establishments as defined by SB374 of the 2013 Legislative Session. 1:43 PM

**Recommendation:** Staff recommends Council adopt Resolution No. \_\_\_\_\_.

**Proposed Motion:** I move to adopt Resolution No. \_\_\_\_\_.

Resolution No. 7896 was adopted.

<b>RESULT:</b>	<b>ADOPTED [5 TO 1]</b>
<b>MOVER:</b>	Dwight Dortch, Council Member
<b>SECONDER:</b>	Sharon Zadra, Council Member
<b>AYES:</b>	Zadra, Delgado, Dortch, Jardon, Schieve
<b>NAYS:</b>	Jenny Brekhuis
<b>ABSENT:</b>	Robert Cashell

- J.7 Approval to provide authority to the City Manager and the City Attorney's Office to settle pending litigation instituted by David Evans against the City of Reno et al, filed in the Second Judicial District Court, the related appellate case filed in the Nevada Supreme Court and other proceedings and matters in an monetary amount not to exceed \$330,200, which authority includes finalization of settlement terms, execution of related documents and pleadings, and other matters relating thereto (General Fund). 5:18 PM

Jack Campbell, Deputy City Attorney, stated that he was under judicial order to keep confidential the work he had done on this case, and stated that he could respond to direct questions from the Council within the limits of that confidentiality order, as well as within the limits of the order of the Second Judicial District Court sealing the matter.

Council Member Brekhuis asked what staff was asking the Council to do.

Mr. Campbell replied that staff was asking the Council to grant the City Manager and City Attorney's Office authority to complete the mediation that was started during the court-ordered mediation process. Once the Second Judicial District Court Judge decided to intervene in the administrative process, he said, the only way for the City to finish the administrative process against Deputy Chief Evans at that time was to challenge the Court's decision and appeal the matter directly to the Supreme Court. When one does that, he continued, it would be a civil matter, and every appeal that goes to the Supreme Court must go through a mandatory mediation process whereby the Court appoints a judge and the impetus is for the parties to settle in order to reduce the Court's docket and free up Court resources. Mr. Campbell explained that through that process they had reached an agreement that would allow the City to realize the goal it had when they filed the appeal, which was to get rid of the Second Judicial District Court's decision because it had wide-sweeping effect to their relationships with their bargaining units and created insecurity for the labor relations groups, the labor organizations, and those managing them. This mediation agreement that we have reached and hope to finalize, he continued, would allow us to realize that goal now, several years in advance - we would have the Court issue a decision that would expunge the District Court's order, and we would resolve the matter and separate ourselves from Mr. Evans two to three years before we would have had we elected to chase the appellant process, and would probably realize between \$600,000 and \$800,000 in savings just in not having to pay his salary and benefits for that time.

**RESOLUTION NO. 7896**

**RESOLUTION OF THE RENO CITY COUNCIL  
DIRECTING THE CITY MANAGER NOT TO ACCEPT  
ANY APPLICATIONS OR REQUESTS TO OPERATE OR  
PERMIT ANY MEDICAL MARIJUANA  
ESTABLISHMENTS AS DEFINED BY SB374 OF THE 2013  
LEGISLATIVE SESSION.**

**WHEREAS**, SB374 was adopted by the Nevada Legislature during its 77th Session and approved by the Governor of the state of Nevada on June 12th, 2013; and

**WHEREAS**, provisions of SB374 require the Health Division of the Department of Health and Human Services of the state of Nevada ("Health Division") to promulgate regulations for the consideration of applications and the issuance of certificates to allow the operations of medical marijuana establishments<sup>1</sup> in the state of Nevada, and specifically in the County of Washoe, where the City of Reno is located; and

**WHEREAS**, SB374 mandates that the Health Division finalize these regulations on or before April 1, 2014; and

**WHEREAS**, SB374 requires an applicant for a medical marijuana establishment to provide to the Health Division proof of licensure with the applicable local government or a letter from the local government confirming that the proposed medical marijuana establishment is in compliance with local zoning regulations and building requirements; and

**WHEREAS**, SB374 provides that a medical marijuana establishment registration certificate issued by the Division shall be provisional until such time as the establishment is in compliance with all applicable local governmental ordinances or rules, and the local government has issued a business license for the operation of the establishment; and

**WHEREAS**, the City of Reno Municipal Code zoning code currently does not allow for any of the medical marijuana establishments contemplated by SB374, nor does the Reno business licensing code allow for the issuance of any business license for any of the medical marijuana establishments contemplated by SB374, and because these uses and businesses are not permitted to operate in the City of Reno, no building permits can be issued specifically for the construction of structures to house any of the medical marijuana establishments contemplated by SB374; and

**WHEREAS**, as some potential applicants for state medical marijuana establishment certificates might attempt to assert to the City of Reno that a medical marijuana establishment is

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<sup>1</sup> SB374 defines a "medical marijuana establishment" as: 1) an independent testing laboratory; 2) a cultivation facility; 3) a facility for the production of edible marijuana products or marijuana infused products; 4) a medical marijuana dispensary; or 5) a business that has registered with the Health Division and paid the requisite fees to act as more than one of the aforementioned establishments. SB374 (2013) at § 8.3.

a use contemplated by the City of Reno Zoning Code or the City of Reno Business Licensing Code, the City Council desires to make clear that the City's current municipal code, as drafted, does not permit any of the medical marijuana establishments as contemplated by SB374; and

WHEREAS, the City Council further desires to take a responsible amount of time to thoughtfully consider the policy and legal implications of permitting medical marijuana establishments to exist within the boundaries of the City of Reno, and as such, desires the City Manager and staff not to accept any land use applications, business license applications, building permit applications or any other application or request to operate or otherwise license or permit any of the medical marijuana establishments as contemplated by SB374; and

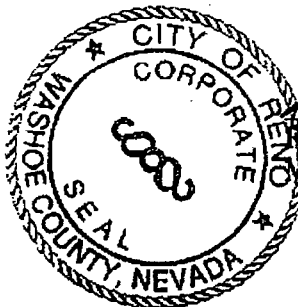
WHEREAS, the City Council will be considering ordinances placing a stay on the acceptance and consideration of any and all land use applications, business license applications, building permit applications or any other application or request to operate or otherwise license or permit any of the medical marijuana establishments as contemplated by SB374.

NOW, THEREFORE, BE IT RESOLVED THAT: Until such time as the City Council adopts ordinances placing a stay on acceptance and consideration of applications related to medical marijuana establishments, the City Manager and his staff shall not accept, nor consider, any land use application, business license application, building permit application or any other application or request to operate or otherwise license or permit any of the medical marijuana establishments as contemplated by SB374.

Upon motion by Council Member Dortch, seconded by Council Member Zadra, the foregoing resolution was adopted this 25<sup>th</sup> day of September, 2013, by the following vote of the Council:

AYES:	<u>Dortch, Zadra, Schieve, Delgado, Jardon, Cashell</u>
NAYS:	<u>Brekhus</u>
ABSTAIN:	<u>None</u>
ABSENT:	<u>None</u>

APPROVED this 25<sup>th</sup> day of September, 2013.



ROBERT A. CASHELL, SR.  
MAYOR

ATTEST:

Lynnette R. Jones  
LYNNETTE R. JONES  
CITY CLERK

EXPLANATION: Matter underlined is new; matter in brackets and stricken [--] is material to be repealed.

BILL NO. 6877

ORDINANCE NO. 6311

AN ORDINANCE AMENDING THE RENO MUNICIPAL CODE TITLE 18, "ANNEXATION AND LAND DEVELOPMENT", CHAPTER 18.02, "GENERAL PROVISIONS," TO ADD SECTION 18.02.114, ENTITLED "STAY ON THE ACCEPTANCE OF LAND USE APPLICATIONS RELATED TO MEDICAL MARIJUANA ESTABLISHMENTS WITHIN THE LAND USE JURISDICTION OF THE CITY OF RENO," TOGETHER WITH OTHER MATTERS PROPERLY RELATING THERETO.

SPONSORED BY: RENO CITY PLANNING COMMISSION

THE CITY COUNCIL OF THE CITY OF RENO DOES ORDAIN:

SECTION 1. Chapter 18.02 of the Reno Municipal Code is hereby amended by adding certain wording to Section 18.02.114, the same to read as follows:

**Section 18.02.114. Stay on the acceptance of land use applications related to medical marijuana establishments within the land use jurisdiction of the City of Reno.**

**Beginning on the effective date of this ordinance, a stay is hereby established on the acceptance of any land use application related to medical marijuana establishments with the City of Reno and its sphere of influence.**

SECTION 2: Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid.

SECTION 3. This Ordinance shall be in effect from and after its passage, adoption and publication in one issue of a newspaper printed and published in the City of Reno.

SECTION 4. The City Clerk and Clerk of the City Council of the City of Reno is hereby authorized and directed to have this Ordinance published in one issue of the Reno-Gazette Journal, a newspaper printed and published in the City of Reno.

PASSED AND ADOPTED this 20<sup>th</sup> day of November, 2013, by the following vote of the Council:


AYES: Zadra, Dortch, Brekhus, Jardon, Cashell

NAYS: None


ABSTAIN: None

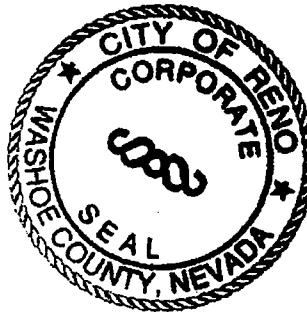
ABSENT: Schieve, Delgado

APPROVED this 20<sup>th</sup> day of November, 2013.

  
ROBERT A. CASHELL, SR.  
MAYOR OF THE CITY OF RENO

ATTEST:

  
LYNNETTE R. JONES  
CITY CLERK AND CLERK  
OF THE CITY COUNCIL OF THE  
CITY OF RENO, NEVADA



EFFECTIVE DATE: November 22, 2013

EXPLANATION: Matter underlined is new; matter in brackets and stricken [--] is material to be repealed.

**BILL NO. 6878**

**ORDINANCE NO. 6312**

**ORDINANCE AMENDING THE RENO MUNICIPAL CODE, TITLE 4, ENTITLED "BUSINESS LICENSE CODE", CHAPTER 4.04, ENTITLED "IN GENERAL", ADDING A NEW SECTION 4.04.065 ENTITLED "STAY ON THE ACCEPTANCE OF BUSINESS LICENSE APPLICATIONS RELATED TO MEDICAL MARIJUANA ESTABLISHMENTS OPERATING WITHIN THE CORPORATE LIMITS OF THE CITY", AND OTHER MATTERS PROPERLY RELATING THERETO.**

**SPONSORED BY: COMMUNITY DEVELOPMENT DEPARTMENT, BUSINESS LICENSE DIVISION**

**THE CITY COUNCIL OF THE CITY OF RENO DOES ORDAIN:**

**SECTION 1.** Title 4, Chapter 4.04 of the Reno Municipal Code, is hereby modified and amended by adding a new Section 4.04.065 as hereby modified and amended to read as follows:

**Section 4.04.065 - Stay on the Acceptance of Business License Applications Related to Medical Marijuana Establishments Operating within the Corporate Limits of the City.**

**Beginning on the effective date of this ordinance, a stay is hereby established on the acceptance of any business license applications related to medical marijuana establishments operating within the corporate limits of the city.**

**SECTION 3.** The Reno City Council hereby finds that this ordinance is not subject to the requirements of Chapter 237 of NRS, Business Impact Statement process.

**SECTION 4.** This Ordinance shall be in effect on January 17, 2014, from and after its passage, adoption and publication in one issue of a newspaper printed and published in the City of Reno.

**SECTION 5.** The City Clerk and Clerk of the City Council of the City of Reno is hereby authorized and directed to have this Ordinance published in one issue of the Reno-Gazette Journal, a newspaper printed and published in the City of Reno.

PASSED AND ADOPTED this 15<sup>th</sup> day of January, 2014, by the following vote of the Council:

AYES: Dortch, Delgado, Schieve, Cashell

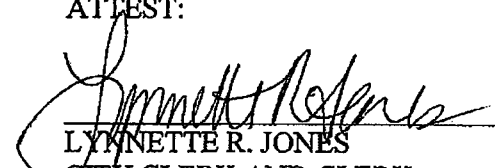
NAYS: Brekhus

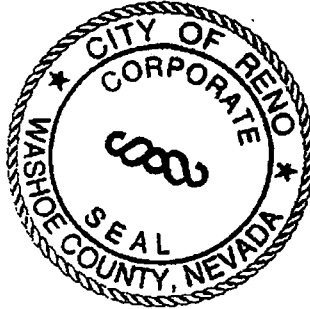
ABSTAIN: None ABSENT: Zadra, Jardon

APPROVED this 15<sup>th</sup> day of January, 2014.

  
ROBERT A. CASHELL, SR.  
MAYOR OF THE CITY OF RENO

ATTEST:

  
LYNNETTE R. JONES  
CITY CLERK AND CLERK  
OF THE CITY COUNCIL OF THE  
CITY OF RENO, NEVADA



EFFECTIVE DATE: January 17, 2014.