



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: June 15, 2017

Staff Contact: Lee Plemel, Community Development Director

Agenda Title: For Possible Action: To adopt a Resolution to initiate the process for declaring a second moratorium on the acceptance and processing of planning or other applications for the construction or operation of Marijuana Establishments. (Lee Plemel, lplemel@carson.org)

Staff Summary: The Regulation and Taxation of Marijuana Act, the Act to legalize recreational marijuana, was passed by Nevada voters during the general election on November 8, 2016. The Board of Supervisors passed a moratorium on the acceptance of applications for new marijuana establishments on January 19, 2017. Unless a new moratorium is enacted, the initial moratorium will expire on July 21, 2017 or, if extended for a maximum period of 60 days, on September 19, 2017. A new moratorium would give time for the Planning Commission and Board of Supervisors to consider appropriate regulations for marijuana establishments. This new moratorium would not apply to Medical Marijuana Establishments with valid provisional certificates wishing to operate under the current Medical Marijuana Establishment regulations in Carson City as of the date the moratorium is enacted.

Agenda Action: Resolution

Time Requested: 10 minutes

Proposed Motion

I move to adopt Resolution No. 2017-R-____, a Resolution to initiate the process for declaring a new moratorium on the acceptance and processing of planning or other applications for the construction or operation of Marijuana Establishments.

Board's Strategic Goal

Safety

Previous Action

The Board of Supervisors adopted Ordinance No. 2017-3 on January 19, 2017, enacting a 180-day moratorium on the processing of any new marijuana establishment applications.

Background/Issues & Analysis

The Board of Supervisors passed a moratorium on the acceptance of applications for new marijuana establishments on January 19, 2017 (effective date: January 22, 2017). Unless a new moratorium is enacted, the initial moratorium will expire on July 21, 2017 or, if extended for a maximum period of 60 days, on September 19, 2017. Pursuant to Carson City Municipal Code Section 18.02.120 (Moratorium), the maximum time a moratorium may be enacted is 180 days by ordinance with the option to extend the moratorium by a maximum of 60 days by Resolution. After that time period, a new moratorium must be enacted in order to extend the period of the moratorium any further.

On May 18, 2017, the Board of Supervisors directed staff to initiate this moratorium extension in order to give time to receive public input and consider appropriate regulations for recreational marijuana establishments.

This extension does not preclude the City from adopting applicable zoning and business license regulations prior to the expiration date of the moratorium and repealing the moratorium or applicable provisions thereto.

The Board of Supervisors laid out some general direction to staff at the May 18 meeting. This included direction to receive public input regarding potential marijuana establishment regulations, and the Board also discussed some general framework for regulating such businesses. Based on the discussions with the Board of Supervisors, staff offers the following tentative meeting schedule for various potential actions regarding marijuana establishment regulations:

- June 20, 2017: Public workshop to receive public input on possible regulations.
- July 6 Board of Supervisors meeting:
 - 1) Report to Board on public input regarding marijuana establishment zoning regulations; possible direction to staff regarding zoning regulations.
 - 2) Review Business Impact Statement for adopting Business License fees for existing MME (Medical Marijuana Establishment) cultivation, product manufacturing, and distribution (transportation) facilities that obtain a license from the State for recreational marijuana.
 - 3) Introduce an ordinance to amend CCMC Title 4 (Business Licenses) to allow existing MME's to obtain a Business License for cultivation, product manufacturing, and distribution of recreational marijuana, and establish Business License fees thereto.
- July 20 Board of Supervisors meeting: Second reading of the above-noted ordinance.
- July 26 Planning Commission meeting: Recommendations to the Board of Supervisors regarding Title 18 Zoning regulations regarding marijuana establishments.
- August 3 Board of Supervisors meeting:
 - 1) Introduction of ordinance regarding zoning for marijuana establishments.
 - 2) Introduction of ordinance regarding business license requirements for marijuana establishments (if applicable).
- August 17 Board of Supervisors meeting: Second reading of the above-note ordinances.

If you have any questions regarding this item, contact Lee Plemel at 283-7075 or lplemel@carson.org.

Attachments:

- 1) Resolution

Applicable Statute, Code, Policy, Rule or Regulation

2016 Regulation and Taxation of Marijuana Act; CCMC 18.02.120 (Moratorium).

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number:

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: This action only implements the process to start moratorium proceedings; it does not implement a moratorium. Actions pursuant to NRS 278 are exempt from business impact statement requirements.

Alternatives

- 1) Do not initiate the new moratorium.
- 2) Provide other direction to staff regarding regulations for Marijuana Establishments.

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

RESOLUTION NO. 2017-R-__

A RESOLUTION TO INITIATE THE PROCESS FOR DECLARING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF PLANNING OR OTHER APPLICATIONS FOR CONSTRUCTION OR OPERATION OF MARIJUANA ESTABLISHMENTS.

WHEREAS, Carson City Municipal Code Section 18.02.120 (Moratorium) allows the Board of Supervisors by Resolution to initiate the process for declaring a moratorium on the acceptance and processing of planning and zoning applications and permits for specific types of applications; and

WHEREAS, The Regulation and Taxation of Marijuana Act (“Act”), the act to legalize recreational marijuana, was passed by the Nevada voters during the general election on November 8, 2016; and

WHEREAS, provisions of the Act requires the Nevada Department of Taxation, hereafter referred to as “Department,” to promulgate regulations for the consideration of applications and the issuance for certificates to allow the operations of “Marijuana Establishments” in the State of Nevada, and specifically in Carson City; and

WHEREAS, the Act requires the Department to approve a Marijuana Establishment license if, among other things, “the locality in which the proposed marijuana establishment will be located does not affirm to the Department that the proposed marijuana establishment will be in violation of zoning or land use rules adopted by the locality” (Regulation and Taxation of Marijuana Act, Section 10(5)(e)); and

WHEREAS, the Act does not prohibit “a locality from adopting and enforcing local marijuana control measures pertaining to zoning and land use for marijuana establishments” (Regulation and Taxation of Marijuana Act, Section 4(2)(d)); and

WHEREAS, the Carson City Municipal Code (“CCMC”), including portions pertinent to zoning, and to Medical Marijuana Establishments (“MMEs”) as contemplated by Senate Bill 374, currently does not address Marijuana Establishments as contemplated by the Act, nor does the CCMC, as it pertains to business licensing, address the issuance of any business license for any Marijuana Establishment as contemplated by the Act; and

WHEREAS, the Act “shall not be construed as in any manner affecting the provisions of Chapter 453A of NRS relating to the medical use of marijuana” (Regulation and Taxation of Marijuana Act, Section 4(3)); and

WHEREAS, as some potential applicants for Marijuana Establishment certificates might attempt to assert to Carson City that such Marijuana Establishment is a use contemplated by the CCMC, the Carson City Board of Supervisors desires to make clear that the current version of the CCMC does not permit any of the Marijuana Establishments as contemplated by the Act, and the Carson City Board of Supervisors desires that representatives of Carson City not 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 Marijuana Establishment as contemplated by the Act; and

WHEREAS, the Carson City Board of Supervisors understands that there are numerous arguments for and against the use of recreational marijuana; and

WHEREAS, because Carson City’s Board of Supervisors must either decide to regulate Marijuana Establishments and/or prohibit some or all Marijuana Establishments within its jurisdiction, and this challenge presents very complicated and difficult issues from both a policy and legal perspective; and

WHEREAS, the current moratorium enacted by Ordinance No. 2017-3 and extended by Resolution will expire on September 19, 2017; and

WHEREAS, because the Carson City Board of Supervisors desires to take a responsible amount of time to thoughtfully consider the policy and legal implications of permitting Marijuana Establishments to exist within the boundaries of Carson City; and

WHEREAS, the Carson City Board of Supervisors desires to initiate this moratorium process to prohibit staff acceptance and consideration of any and all land use applications, business license applications, building permit applications and any other application or request to operate or otherwise license or permit any of the Marijuana Establishments as contemplated by the Act, in order to permit the Carson City Board of Supervisors to responsibly consider the policy and legal implications of the Act and the Department

regulations and to provide amendments to the CCMC to address the policy and legal implications of Marijuana Establishments in Carson City.

NOW, THEREFORE, the Board of Supervisors hereby resolves:

The Board of Supervisors hereby initiates the process for declaring a moratorium on the acceptance and processing of planning applications, including land use applications, business license applications, building permit applications or any other application or request for the construction or operation of Marijuana Establishments as contemplated by the Regulation and Taxation of Marijuana Act, excluding Medical Marijuana Establishments (MME) with valid provisional certificates from the State of Nevada to operate in Carson City at the time of adoption of the moratorium to operate under current MME regulations.

ADOPTED this ___ day of _____, 2017.

VOTE: AYES: _____

NAYS: _____
ABSENT: _____

ROBERT L. CROWELL, Mayor

ATTEST:

Susan Merriwether, Clerk-Recorder