

RESOLUTION NO. 2017-R-24

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.

Upon motion by Supervisor Karen Abowd, seconded by Supervisor John Barrette, the foregoing Resolution was passed and adopted this 15th day of June, 2017, by the following vote:

AYES: Supervisor Karen Abowd
Supervisor John Barrette
Supervisor Brad Bonkowski
Supervisor Lori Bagwell
Mayor Robert Crowell

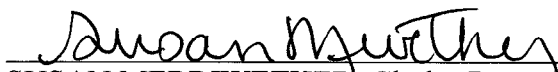
NAYS: None.

ABSENT: None.

ABSTAIN: None.


ROBERT L. CROWELL, Mayor

ATTEST:


SUSAN MERRIWETHER, Clerk - Recorder