



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 12/19/06  
AGENDA ITEM 5  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council  
**FROM:** City Manager  
**SUBJECT:** Limited Extension of Agreement with Hayward Patients Resource Center

**RECOMMENDATION:**

It is recommended that the City Council, by motion, extend the current agreement with the Hayward Patients Resource Center for ninety days.

**DISCUSSION:**

In 2003, the City Council considered requests from the Local Patients Cooperative (Cooperative) and the Hayward Patients Resource Center (Resource Center) that they be allowed to dispense medicinal marijuana from their sites on Foothill Boulevard. Because of the conflict between Federal and State laws on this issue, and because zoning regulations do not expressly allow such uses, the Council did not formally authorize the operations. Instead, the City Council authorized execution of an agreement whereby the City agreed to withhold enforcement action for non-compliance with the zoning ordinance provided certain conditions were fulfilled.

At the November 14, 2006 worksession, staff reported that because the Cooperative was in violations of the agreement, it had been notified to cease operations by December 31, 2006.

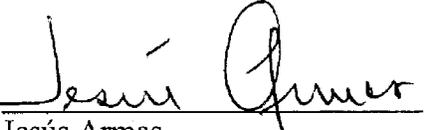
Staff also reported that the Resource Center has been complying with the agreement, and has requested that consideration be given to extending the term of the current agreement, which expires December 31, 2006.

At the worksession, it was noted that, should the Council be receptive to extending the current agreement with the Resource Center, staff would suggest the addition of the following provisions:

- Establishing hours of operations of 11:00 AM to 7:00 PM.
- Causing termination of the agreement should sales of marijuana occur outside of the building.
- Requiring that security be provided by a licensed security company acceptable to the City, and that on-duty security personnel wear appropriate attire.

While it has never been appropriate, under the City's zoning ordinance, for a medicinal marijuana facility to be located downtown, the City's recent and substantial investment in the Cinema Place project, and the expected increase in pedestrian traffic in the area, serve as compelling examples of the reasons for eliminating the use. Whether a suitable substitute location exists elsewhere in the City cannot be determined at this time.

Thus, staff is recommending the extensions of the current agreement for a period of ninety days to continue to investigate location and related issues.

  
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Jesús Armas  
City Manager

Attachment

Operating Memorandum  
Medical Marijuana Establishments  
Hayward Patients Resource Center

WHEREAS, the City of Hayward has determined that Medical Cannabis Distribution Establishments are not authorized in the Central City Commercial zone; and

WHEREAS, several such establishments are now located in said zone in the downtown area; and

WHEREAS, the City Council has determined that due to the conflict in State and Federal law it is not in a position to regulate Cannabis Establishments (hereafter Establishments); and

WHEREAS, the Establishments acknowledge the lack of existing zoning regulations that would authorize their existence; and

WHEREAS, the undersigned represent and warrant that they have the unlimited authority to enter into this Memorandum; and

WHEREAS, this Memorandum shall be binding on the successors, heirs, assigns and/or all future Operators of the Establishment; and

WHEREAS, the City Council has acknowledged that taking immediate action to close the Establishments may be premature considering the conflict of laws.

NOW THEREFORE, the undersigned agree as follows:

1. As long as the hereafter set forth conditions are fully complied with, no action for violation of Hayward's Zoning Regulations, for conducting an illegal business, will be pursued against the Hayward Patients Resource Center for a period of three years commencing January 1, 2004 and ending December 31, 2004. In the event that either the Hayward Patients Group (Hempery) or Local Patients Cooperative cease operations within the Hayward City limits prior to the expiration of their amortization period, Hayward Patients Resource Center shall be entitled to remain in operation through December 31, 2006.

2. Operators must manage facilities to ensure that they are safe, sanitary, and do not create a public nuisance detrimental to the health or safety of the surrounding businesses or neighborhood. Facilities shall be managed to ensure that they do not create a demand for police services.

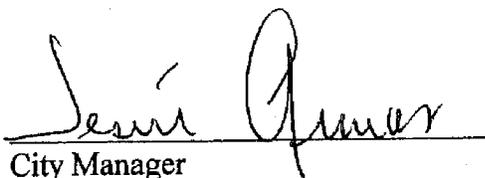
3. Operators shall actively discourage their patients/patrons from smoking or gathering on the sidewalk or other public rights-of-way. Smoking on the premises shall be discouraged except for extraordinary cases arising from physical necessity.

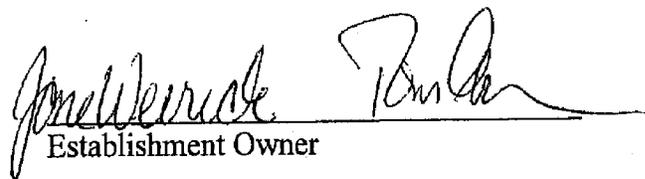
4. Operators shall not advertise their marijuana distribution services.
5. Operators shall have no more than three (3) pounds of marijuana on site at any one time.
6. Police personnel will periodically make unannounced visits to confirm that the Establishments are safe, sanitary and in compliance with all of the provisions of these conditions.
7. If the quantity of allowed marijuana is exceeded or if the demand for police services becomes excessive, the City Manager, in his sole discretion, may order the establishment to be closed. Such establishment shall close and vacate the premises within thirty (30) days of receipt of such notice.
8. The current location of Operator's Establishment (Hayward Patients Resource Center) is 22550 Foothill Boulevard, Hayward, California. Said Establishment shall not be relocated to any other site within the corporate limits of the City of Hayward.
9. If there is any sale, exchange, or change of ownership of the Establishment, Operator shall disclose this Memorandum and the time limits applicable to the Establishment to any and all successors in interest and assure that such successors execute a copy of the same and deliver it to the City of Hayward.
10. Establishment shall close and vacate the premises at the end of the period set forth in paragraph 1 of this Memorandum.
11. Operators shall comply with all City of Hayward laws, rules and regulations during the time period covered by this Memorandum.

Executed at this 18<sup>th</sup> day of December, 2003 at Hayward California.

By:

By: Jane Weirick Tom Lemos

  
City Manager

  
Establishment Owner