

**Mira Mesa Community Planning Group
Meeting Minutes, August 18, 2014 7PM
7220 Trade Street, San Diego CA 92121**

Call to Order – PG Members In attendance:

1.	Ted Brengel	6.	Tom Derr	11.	Joe Frichtel	16.	Mike Linton
2.	Bob Mixon	7.	James Ludwick	12.	Ralph Carolin		
3.	Bruce Brown	8.	Julia Schriber	13.	Matt Woods		
4.	Craig Radke	9.	Kent Lee*	14.	Eileen Magno		
5.	Pat O'Donohoe	10.	Walt Kanzler	15.	Joe Punsalan		

1. The Chair presented for unanimous consent to proceed with all business other than the MMCC applications first to allow other applicants to complete their business with the group before discussing and voting on the MMCC applications. No objections were raised.
2. Non-Agenda Public Comments:
 - a. Julia Schriber made a motion to place the request of the Sorrento Valley Town Council for signage on the agenda for the next meeting. The Chair ruled the motion out of order as not pertaining to the draft agenda pending before the group. Ms. Schriber referred to Roberts Rules in general and City Council Policy 600-24. The Chair disagreed with respect to Roberts Rules which specifies the mechanism for changing an agenda on page 373 of the 11th Edition. The Chair also disagreed with Ms. Schriber’s interpretation of Council Policy and directed her to refer the matter to the City for clarification.
 - b. Jolene Tomenaga- request for a stop sign 4 way stop Acama and Andosal.
3. Adopt Draft Agenda –Ted Brengel motion, Bruce Brown second. Motion carried 16-0-0.
4. Adopt Previous Meeting Minutes – No changes were requested. Motion to adopt by Bob Mixon/Joe Frichtel. Motion carried 12-0-4. Abstentions were due to not being present at June meeting.
5. Old Business
 - a. Barnes Canyon easement - SWS Engineering
 - i. Lot 95 of Lusk Industrial Park
 - ii. No longer loop system.
 - iii. Easement vacation requested
 - iv. Raised planter and deck not allowed to construct
 - v. Water department has approved.
 - vi. 12” water line
 - vii. Motion to recommend approval: Bob Mixon, Ted Brengel second Motion carried

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15-0-0 approved

- b. Sorrento Gateway SCR: Kilroy Realty not in attendance.
- c. Carroll Canyon Commercial Center: Scripps Ranch Planning Group- Wally Wolpeck, Chairman updated the MMCPG on the progress of the commercial center development project just east of the I-15.

6. New Business

- a. San Diego Ice Arena
 - i. Solar Arrays in progress in parking lot. Project is Process 1 and does not require CPG recommendation. SD Ice is updating the CPG as a courtesy.
 - ii. Enhanced landscaping
 - iii. 45-60% of energy use
 - iv. \$1 million project.
 - v. Reduce energy use by 50%
 - vi. Expect to be in place for 20 years
- b. SDGE Easement Mira Sorrento substation
 - i. Claudia Valenzuela 858-654-8307
 - ii. City of san diego easement removal
 - iii. Landscaping buffer and welcome to Mira mesa monument signage
 - iv. Motion to promote Ted B, Joe Frichtel second. Motion carried 15-0-0.
- c. San Diego Food Bank Information item:
 - i. Annie Rosenthal OBR architecture
 - ii. Goal to create zero waste- cannot be redistributed
 - iii. Utilize composting, bail and pair down on site, for recycling elsewhere
 - iv. Three requests
 - 1. Sewer Easement vacation, City records do not show easement
 - 2. Proposed Rezone IL-1-1, City of SD recommended this rezone
 - 3. CUP to allow composting, install digester into existing warehouse space
- d. Medical Marijuana Consumer Cooperatives
 - i. Glass Tech Entities
 - 1. Michael Rollins – Rollins Construction presenting
 - 2. 9212 Mira Este Court
 - 3. Near Miramar Road
 - 4. Why Glass Tech? Building is non descript- no signage- very discreet
 - 5. Mutual Benefit- Not for Profit. Alliance for medical access.
 - 6. Separate illegal operations from legal medical use
 - 7. Steve Dizaiy- Chemist- Safety protocol- testing for pesticides- patient safety
 - 8. Wayne Kelly- Safe, legal reliable access to medical canibis, MS patients alternative to pharmaceuticals, canibis is a benign treatement.
 - 9. Ted Brengel- how will you get marijuana to the facility. Not answered.

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10. Location is not accessible? No elevator provided. 20% ADA upgrades to meet accessibility requirements.
11. Per city comments: Within 1000' of three child care centers.
12. 2 other sites within 1000' minor oriented.
13. 1000' radius to property vs. entry to buildings.
14. Spoke to church – not in opposition
15. Paint ball and model not minor oriented

ii. EJ Marketing

1. Jessica McElfresh, Attorney
2. 7128 Miramar Road
3. It is 1000' from all prohibited uses
4. Radius clips corner of base and city is ok with this.
5. Distance from Pacific Lighthouse Christian Fellowship- suggesting that the Church is not a permitted use.
6. Champion Rhythmics- not a minor oriented facility? Primary use is devoted to people under the age of 18. Affidavit by owner Alex Weitz that Champion Gymnastics is not a minor-oriented facility.
7. Plan to update building to full ADA access. Including lift and restroom upgrades
8. Driveways may require update to meet current code
9. Safety and Security plan
10. Metal detector in entry way
11. Responsible operation items listed.
12. Security guard will monitor parking lot and adjacent areas.
13. Health and Safety permit required. Annual site review
14. CUP valid for 5 years

iii. MedBOX

1. Oscar Urteheha- Cynthia Morgan presenting
2. 8008 Miramar Road
3. Presented site photos, camera location,
4. 10 parking + 1 accessible park
5. Signage and hours presented in compliance with City guidelines
6. Security to exceed state and local requirements
7. Fully ADA compliant
8. State registered pharmacist to operate
9. District manager will provide oversight
10. Benefits of MEDBOX.
11. System to track from seed to sale
12. Request to approve application
13. CUP findings presented-
14. Site complies with Land Development Code
15. United Training, Game Sync, uses not properly zoned
16. Operating in 3 other states- Nevada, Oregon, Arizona
17. How does this comply with non profit- MMCC member of joint cooperative

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- iv. Nicole Britvar: 7625 Carroll Rd
 1. Meet all city conditions- cycle issue reports
 2. Meeting with Edith Gutierrez- PM recommends approval
 3. 23 parking spaces provided
 4. Will meet all driveway requirements
 5. Fully ADA accessible

- v. Public Comment- open by John H.
 1. Rob Hall lives near a MMCC. Distributed Union tribune article
 - Recommending not approving any due to various concerns
 2. Carol Green- Security concerns for the community.
 - Follow city council rules
 - There are locations that meet this criteria.
 - Does not see how this will benefit the community
 3. Barbara Gordon
 - Issues- loitering, smoking, fearful adjacent to dispensary on Oberlin
 - There is an overall negative impact to the area.
 4. Kathleen Lippit
 - Youth access- weedmaps.com available throughout San Diego. Suggesting City will not be able to limit illegal dispensaries. Why are we approving legal dispensaries? May want to consider limiting advertising for medical use only.
 5. Judy ?
 - Pot shops in Pacific Beach
 - GW Pharmaceuticals- non smoking products
 - Approved FDA process
 - Is MEDBOX using vending machine
 - Check out clientele at existing
 - Marketing to young people.

 6. Ted Brengel- A few facts to Consider- Prop 215
 - What is a cooperative? Definition shared.
 - Is the dispensary a primary care giver
 - None of the presenters addressed this.
 - Health and Safety concerns.

vi. Vote process

1. The applications are in Process 3, which means a Hearing Officer will make the final decision. If MMCPG declines to approve any of the applicants, it may abdicate its prerogative to provide guidance to City.

2. The Chair presents the Special Rules of Order distributed with the agenda (attached below) for consideration. Motion to adopt the Special Rules of Order was made/seconded by Pat O'Donohoe/Ted Brengel.

3. The mechanics of the vote were discussed, with a spreadsheet projected for

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all attendees to see. Spreadsheet showed how each member ranked the applicants. Members were able to not rank any applicant, essentially abstaining from the vote.

4. The motion to adopt the Special Rules of Order carried 14-2-0. The Chair polled each member and the member's vote was recorded on the spreadsheet. The results are attached below.
 5. The first vote to recommend Glass Tech Entities was 7-1-8. This precluded consideration of MEDBOX, it being within 1,000 feet of Glass Tech. This forwarded voting to a "third" vote to recommend Nicole Britvar over EJ Marketing. This vote was 9-0-7.
- vii. Motion to conditionally recommend Glass Tech Entities and Nicole Britvar, with conditions expressed in Ted Brengel's presentation (included below, slide #9) was made/seconded by Ted Brengel/Pat O'Donohoe. Motion carried 16-0-0.

7. Announcements

- a. Community Artist (Leo Angelo Reyes) – Will propose a mural for second Casa Mira View parking garage. Also needs \$\$ to complete electrical transformer boxes. Matter will be referred to Mira Mesa Town Council. Will look at wall facing sidewalk at Salk Elementary.
- b. Miramar Ranch 5k Saturday Dec 6
- c. Mira Mesa Festival of Beers, August 23

8. Elected Officials/Government Agencies

- a. United States Congress – Scott Peters, California 52nd District: No Info
- b. California Senate – Marty Block, District 39: No Info
- c. California Assembly – Brian Maienschein, District 77: No Info
- d. San Diego County – Dave Roberts, Board of Supervisors District 3: No Info
- e. City of San Diego – Mayor's Office: No Info
- f. City of San Diego – Lorie Zapf, City Council District 6: Ryan Purdy, rpurdy@sandiego.gov 619-236-6616
 - i. Brief updates- city budget passed
 - ii. Library hours added
 - iii. Police cameras
 - iv. Land Use policy
 - v. Pacific Beach, North Park, Alcohol consumption concerns.
 - vi. Enforce laws on the books
 - vii. Lions Club- flag raised fine?
- g. San Diego Unified School District: No Info

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- h. MCAS Miramar –Fairy Shrimp Environmental Management Department stickers provided
 - i. Date of Airshow October 3-5. Original format.
 - i. CalTrans: No Info
- 9. Reports held over for next meeting.

Adjourn: 9:47 PM

Jay Dichoso- 10746 Glendover Lane, Mira Mesa reviewing MMCPG, observer interested in joining the Planning Group.

MIRA MESA COMMUNITY PLANNING GROUP
SPECIAL RULES OF ORDER FOR ITEM #4(d) ON THE AGENDA FOR 18 AUGUST 2014

1. The Chair will make a motion to adopt the following as Special Rules of Order for the consideration of the Medical Marijuana Community Cooperative applications before the Planning Group for a recommendation to the City Council.
2. Members of the Planning Group will base their evaluation of the applicants on the following four criteria from the Municipal Code (Section §126.0305):
 - a. The proposed development will not adversely affect the applicable land use plan;
 - b. The proposed development will not be detrimental to the public health, safety and welfare;
 - c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code; and
 - d. The proposed use is appropriate at the proposed location.
3. Due to the Municipal Code restriction limiting each Council District to four permits the Mira Mesa Community Planning Group will consider approval for only two among the four applicants, leaving two permits available for applicants in the Convoy/Kearny Mesa area of Council District 6.
4. Voting on the applicants before the Planning Group for a recommendation shall proceed as follows:
 - a. Voting: The Chair will request each member to express their preference for applicants by indicating the order in which the member believes they merit a recommendation of approval. The rankings shall be recorded on a spreadsheet which shall be projected for the view of those attending the meeting.
 - b. The First Vote
 - i. If a member does not wish to recommend approval for any applicant, the member will state to the Chair that he/she does not wish to recommend any of the applicants.
 - ii. Each member who wishes to recommend approval for an applicant or applicants will state their order of preference. The member may rank all four applicants, or choose to rank only those he or she feels merits a recommendation, at the member's discretion.

- iii. If an applicant receives 10 or more #1 rankings, that applicant shall receive the first recommendation for approval and voting shall proceed to the Second Vote except as provided for in 3(b)(vi) vi below.
- iv. If no applicant receives 10 or more #1 rankings, points shall be awarded as follows:
 - 1. #1 vote = 4 points.
 - 2. #2 vote = 3 points.
 - 3. #3 vote = 2 points.
 - 4. #4 vote = 1 point.
- v. A show of hands will then be taken for each of the two highest scoring applicants. **Members not wishing to recommend any applicant may abstain from this vote.** The applicant receiving the most votes numbering 10 or more (a majority of the entire Planning Group Executive Committee) in this show of hands shall receive the first recommendation for approval.
- vi. As a result of the awarding of the first recommendation for approval, if one of the remaining applicants has applied for a location within 1,000 feet of the first recommended applicant, due to Municipal Code restrictions disallowing MMCCs within 1,000 feet of each other, that applicant shall be ineligible for a recommendation. Voting shall proceed to the Third Vote.
- vii. Should the First Vote fail to secure 10 or more votes for the first recommendation as a result of this process, no applicant will be recommended and voting shall be concluded.

c. The Second Vote

- i. If a member does not wish to recommend approval for any of the remaining applicants, the member will state to the Chair that he/she does not wish to recommend any of the remaining applicants.
- ii. Each member who wishes to recommend approval for a second applicant will state their order of preference. The member may rank all three remaining applicants, or choose to rank only those he or she feels merits a recommendation, at the member's discretion.
- iii. If a single applicant receives 10 or more #1 rankings, that applicant shall receive the second recommendation for approval and voting shall be concluded.

- iv. If no applicant receives 10 or more #1 rankings, points shall be awarded as follows:
 1. #1 vote = 3 points
 2. #2 vote = 2 points.
 3. #3 vote = 1 point.
 - v. A show of hands will be taken between the two highest scoring applicants. **Members not wishing to recommend any applicant may abstain from this vote.** The applicant receiving the most votes numbering 10 or more (a majority of the entire Planning Group Executive Committee) in this show of hands shall receive the second recommendation of approval and voting shall be concluded.
5. The Third Vote (if necessary per 3(b)(vi) above)
- a. The Third Vote shall be between two remaining applicants.
 - b. Each of the two remaining applicants shall receive a vote by show of hands. **Members not wishing to recommend a second applicant may abstain from these two votes.**
 - c. The applicant receiving the most votes numbering 10 or more (a majority of the entire Planning Group Executive Committee) shall receive the second recommendation.
 - d. Should neither of the two remaining applicants receive 10 or more votes at the Third Vote, no second recommendation shall be given.
6. Members are expressly under NO OBLIGATION to explain the reasons for their preferences as expressed by their votes.

A Few Facts to Consider

About Medical Marijuana

Cooperative

“A cooperative can be defined for practical purposes as a democratic association of persons organized to furnish themselves an economic service under a plan that eliminates entrepreneur profit and that provides for substantial equality in ownership and control.”

Israel Packel, *The Organization and Operation of Cooperatives 2* (4th ed. 1970).

Primary Caregiver

A “primary caregiver” is an individual or facility that has “consistently assumed responsibility for the housing, health, or safety of a patient” over time. (Cal. H&S Code sec. 11362.5(e).)

In light of the results of several California Supreme Court Cases (*People v. Mentch, supra, et al*), more aid to a person’s health than the mere dispensing of marijuana must occur for qualification as a primary caregiver.

Attorney General's Guidelines

The California Attorney General promulgated a set of guidelines in August of 2008 which said in summary:

- Cooperatives and collectives must be non-profit entities
- Medical marijuana transactions are subject to sales tax, per a determination by the State Board of Equalization
- Cooperatives and collectives must follow generally accepted cash handling practices, such as maintaining a ledger of cash transactions
- Each member's status as a qualified patient or primary caregiver must be verified, either by possession of a valid Medical Marijuana ID Card or by authentication of a doctor's recommendation through contact with the issuing physician, and be documented in the records of the cooperative or collective
- Cooperatives and collectives must be self-contained; that is, they cannot distribute marijuana to or acquire marijuana from non-members.

San Diego County Grand Jury 2009/2010

“When regulations and guidelines are adopted to govern cooperatives/collectives, there should be a distinction drawn between a small cooperative/collective and a large one.”

“Cooperatives or collectives that are providing a legitimate service to qualified patients, and are willing to follow the guidelines for their small group of medical marijuana patients, should not be forced to close because they cannot afford to remain in compliance with the new regulations.”

Grand Jury Recommendation to the San Diego Mayor and City Council

10-114: Enact an ordinance creating an immediate moratorium on the opening of additional medical marijuana dispensaries in the City of San Diego, pending the adoption by the Council of guidelines regulating such establishments, as recommended by the Medical Marijuana Task Force with appropriate public input.

10-115: Enact an ordinance to establish a cost neutral program for the licensing, regulation and monitoring of medical marijuana collectives and cooperatives, and establish a limit on the number of such facilities.

10-116: Adopt regulations which would allow for the closure of all unlicensed "dispensaries."

Health and Safety Concerns

Safety

- The presence of both Marijuana and cash make MMCCs a lucrative target for criminals
- There are no specific requirements for security
- Cash business? (USA Today - July 13, 2014)

Health

- Ordinary drugstores have rigid requirements to insure purity of dispensed drugs and safety of customers
- Marijuana Dispensaries including MMCCs have none.
- There have been instances of bad products with various funguses, molds, and adulterants including lead and feces.

Minor-oriented Facilities

The MCAS Miramar Industrial area contains a number of youth-oriented businesses where children routinely participate in activities onsite.

Sky High Sports
8190 Miralani drive



SD United Training Center
7698 Miramar Road



Miramar Speed Circuit
8123 Miralani Dr



Gamesync
7905 Silverton Avenue



- There are many more of plus daycare centers and churches
- I did not count MCAS Miramar child care centers because access requires travel to a gate with a total distance to travel of over 1,000 feet.

My Recommendation to the Mira Mesa Community Planning Group

1. Recommend to the Hearing Officer that all CUP requests be tabled until such time as the illegal “dispensaries” in the area are closed and the City demonstrates that it has the wherewithal to both *keep* illegal marijuana dispensaries closed *and* to properly regulate MMCCs.
2. Place the CUP requests in order based upon our assessment as to their ability to serve the purposes intended by Proposition 215 with a recommendation that once the conditions above are satisfied, a maximum of two CUPs within Mira Mesa be issued to the two top applicants.

Proposition 215 - Compassionate Care Act

- To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.
- To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.
- To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

Prop 215 (continued)

- Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.
- Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.
- Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.
- For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

**MIRA MESA COMMUNITY PLANNING GROUP
SPECIAL RULES OF ORDER FOR MMCC RECOMMENDATIONS**

		GLASS TEC		EJ MARKETING		MEDBOX		NICOLE BRITVAR	
		RANK	SCORE	RANK	SCORE	RANK	SCORE	RANK	SCORE
R01	Kent Lee	0	0	0	0	0	0	0	0
R02	Joe Punsalan	0	0	0	0	0	0	0	0
R03	Joe Frichtel	0	0	0	0	0	0	0	0
R04	Ted Brengel	1	4	0	0	0	0	0	0
R05	Bruce Brown	0	0	0	0	0	0	0	0
R06	Tom Derr	1	4	0	0	0	0	2	3
R07	James Ludwick	0	0	0	0	0	0	0	0
R08	Robert Mixon	1	4	0	0	0	0	2	3
R09	John Horst	0	0	0	0	0	0	0	0
R10	Jeff Stevens	0	0	0	0	0	0	0	0
R11	Pat O'Donohoe	0	0	2	3	0	0	1	4
B01	Marvin Miles	0	0	0	0	0	0	0	0
B02	Craig Radke	1	4	0	0	0	0	2	3
B03	Julia Scribner	1	4	0	0	0	0	2	3
B04	Eileen Magno	0	0	0	0	0	0	0	0
B05	Walter Kanzler	0	0	0	0	0	0	1	4
L01	Ralph Carolin	1	4	0	0	0	0	2	3
L02	Matt Woods	0	0	0	0	0	0	0	0
L03	Mike Linton	0	0	0	0	0	0	0	0
TOTAL		24		3		0		23	

Members with all zeroes elected not to recommend any applicant.

August 19, 2014

City of San Diego, Planning Department
1222 1st Avenue, MS 413
San Diego CA 92101

To the Director:

At our August 18, 2014 meeting the Mira Mesa Community Planning Group heard a second round of presentations by four applicants for Conditional Use Permits (CUP) to operate Medical Marijuana Community Cooperatives. Please accept this letter as our report and recommendations on this matter.

It is our strong belief that current enforcement measures on illegally operating medical marijuana shops are grossly inadequate. As such, we request that the Hearing Officer table consideration of the permit applications until such a time as the illegal "dispensaries" in the area are closed and the City demonstrates that it has the wherewithal to both keep illegal marijuana dispensaries closed and to properly regulate MMCCs.

This notwithstanding, the presentations we heard were informative, thorough and educational. Two applicants stood out in this respect and we have voted to express our preference for these two applicants. Our first preference is for Glass Tech Entities (Project # 368509). Due to the Municipal Code restrictions disallowing MMCCs within 1,000 feet of each other, this recommendation precluded us from recommending the MEDBOX application (#368322). The second applicant most preferred by the Planning Group was that of Ms. Nicole Britvar (#370687).

At such a time as illegal dispensaries are closed and effective enforcement mechanisms are in place to prevent them from simply opening up in a new location, we can support the awarding of only two CUPs to the two applicants mentioned above. This will allow the other two CUPs allowed for the 6th District to be awarded to applicants in Kearney Mesa with the guidance of the Kearney Mesa Community Planning Group.

This matter has of course been controversial. Numerous residents expressed their concern and opposition. However, we recognize that Proposition 215 is state law as expressed by the voters and the City Council has acted in their capacity as our representatives to craft a Municipal Ordinance to implement this law in San Diego. We wish to assist the City in implementing this Ordinance in our Community in keeping with the four criteria specified in the Municipal Code in support of necessary findings for these permits, these four criteria being:

- The proposed development will not adversely affect the applicable land use plan;
- The proposed development will not be detrimental to the public health, safety and welfare;
- The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code; and
- The proposed use is appropriate at the proposed location.

It is especially in light of the second of these four criteria that we insist that the City first remedy the inadequacies of current enforcement on illegal cooperatives. Subsequent to that, we ask that the two named applicants above be preferred in the deliberations on awarding two of the four allowable CUPs.

Cordially,



John Horst
Chairman, Mira Mesa Community Planning Group