



Kriss Worthington

Councilmember, City of Berkeley, District 7
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ACTION CALENDAR

January 29, 2008

To: Honorable Mayor and Members of the City Council

From: Councilmembers Kriss Worthington and Darryl Moore

Subject: Medical Cannabis Sanctuary Resolution and Opposing U.S. DEA Dispensary Raids

RECOMMENDATION:

- 1) Adopt a Resolution opposing the attempts by the U.S. Drug Enforcement Administration to close medical marijuana dispensaries, and declaring the City of Berkeley as a sanctuary for medicinal cannabis use, cultivation, and distribution that complies with State law and local ordinances in the event that the U.S. Drug Enforcement Administration (DEA) closes one or more of Berkeley's regulated medical cannabis dispensaries (MCDs).
- 2) Direct the Berkeley Police Department and the City Attorney's office not to cooperate with DEA investigations of, raids upon, or threats against physicians, individual patients or their primary caregivers, and medical cannabis dispensaries and operators who are operating in accordance with California state law and local ordinances, and
- 3) Direct the City Clerk to send letters to the Alameda County District Attorney, the Alameda County Sheriff's Department, and the State Attorney General requesting that they not assist in the harassment, arrest or prosecution of physicians, individual patients or their primary caregivers, and medical cannabis dispensaries and operators attempting to comply with section 11362.5 of the California Health and Safety Code; and send a letter to Governor Arnold Schwarzenegger urging him to defend the more than 200,000 California patients who rely on medical cannabis, and to prevent any further interference by the federal Drug Enforcement Administration in the successful implementation of state law.
- 4) Schedule a special workshop on the status of medical marijuana locally and statewide that includes reports from dispensary operators, patients, medical marijuana policy experts, the Berkeley Police Department, Health and Human Services Department, and Planning Department.

BACKGROUND:

In 1996, California voters approved Proposition 215, the Compassionate Use Act, which legalized and regulated the medical use of marijuana. The measure received support from over 85% of Berkeley voters. In 1997 and again in 2004, the City of Berkeley passed regulations permitting the operation of up to three medical cannabis dispensaries (MCDs).

In 2002 the City went on record opposing DEA raids, and directed its Police Department not to cooperate with the Drug Enforcement Administration in investigations of medical marijuana dispensaries.

State legislation and court decisions have also clarified the law regarding the provision of marijuana for medicinal purposes.

However, recently the federal government has escalated its attacks on MCD patients and operators in California. The DEA has launched a campaign of threatening, raiding, seizing the property of and forcing the closure of many legally established medical cannabis providers in California, facilities that were compliant with state law and local ordinances. More than 30 raids occurred from June to December 2007, in 11 counties. One Berkeley MCD lost its assets when its sister agency, located in Los Angeles, was raided in July 2007.

The most recent tactic by the DEA is to send letters to property owners in the Bay Area, threatening them with the loss of their buildings and land, as well as possible imprisonment, for leasing space to MCDs. This creates a chilling effect, making it extremely difficult to find property owners willing to lease to qualified dispensaries.

These efforts have not only prevented dispensaries from providing medical marijuana to patients throughout the state, but also to chronically ill patients in the City of Berkeley. Also the forced closures of medical cannabis dispensaries have resulted in the loss of a significant amount of tax revenue and jobs.

In response to attacks on medical marijuana providers, the City and County of San Francisco declared its city as a "sanctuary for medical cannabis" in 2001. It is important that the City of Berkeley join San Francisco in making Berkeley a sanctuary to ensure that patients continue to have safe access to medical marijuana. The City should also join other jurisdictions and elected officials in opposing the attempts by the federal Drug Enforcement Administration to harass and force the closure of legitimate medical marijuana providers.

Additionally, a Council Workshop on Medical Cannabis would provide an opportunity to update the Council and the community on the current state of implementing Berkeley's Municipal Code, Section 12.26 "Protocols for Medical Cannabis," which addresses the California Health and Safety Code Section 11362.5, known as the Compassionate Use Act of 1996 and regulates the location of facilities lawfully used for the storage, dispensing and use of medical cannabis. The following topics may be of particular interest to the Council:

Medical Cannabis Sanctuary Resolution and Opposing U.S. DEA Dispensary Raids ACTION CALENDAR
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- A report from dispensary operators, physicians and patients on the role of dispensaries in providing medicine to patients who need it;
- A report on the State Board of Equalization's decision to collect sales tax on medical marijuana;
- A report on the recent decision in the Alameda County Superior Court to nullify the election results of the 2004 General Election regarding Berkeley's Measure R, "Patient's Access to Medical Cannabis Act of 2004";
- A report from the Berkeley Police Department on the safety and security of medical cannabis facilities; and
- A report from the Planning Department on the zoning issues related to siting dispensaries in Berkeley.

FINANCIAL IMPLICATIONS:

NONE

CONTACT PERSON:

Councilmember Kriss Worthington, 981-7170.
Councilmember Darryl Moore, 981-7120.

Attachments:

1. Resolution
2. Text of LA Times article about July raid in LA
3. Text of Oakland Tribune article about Berkeley Patients Group asset forfeiture
4. Text of CA Senate Joint Resolution 20 (Sponsor: Migden)
5. Text of San Francisco Board of Supervisors Resolution 955-01

RESOLUTION NO. ##,###-N.S.

DECLARING THE CITY OF BERKELEY AS A SANCTUARY FOR MEDICINAL CANNABIS AND OPPOSING ATTEMPTS BY THE U.S. DRUG ENFORCEMENT ADMINISTRATION TO CLOSE MEDICAL MARIJUANA DISPENSARIES

WHEREAS, The City of Berkeley supports the rights of persons with medical conditions to obtain and use cannabis 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 cannabis in the treatment of an illness or medical condition for which cannabis provides relief; and

WHEREAS, Historic practice and scientific research have demonstrated medical marijuana alone or in combination with other drugs is an effective treatment for nausea reduction for patients with cancer and Acquired Immune Deficiency Syndrome; increasing appetite for patients with nausea or other conditions causing dangerous weight loss; reducing eye pressure in patients with glaucoma; and controlling muscle spasms, seizures, and chronic muscular pain; and

WHEREAS, Many residents of the City of Berkeley are or will become seriously ill with cancer, anorexia, HIV/AIDS, chronic pain, movement disorders, glaucoma, arthritis, migraines, or other medical conditions for which cannabis may provide relief; and

WHEREAS, In 1996, with over 80 percent of Berkeley voters supporting the Compassionate Use Act (CUA), or Proposition 215, the City Council of Berkeley resolved that the City will facilitate the implementation of the Compassionate Use Act of 1996, which legalized and regulated the use of marijuana as medicine; and

WHEREAS, In 1997, the Berkeley City Council amended its Zoning Ordinance No. 3018 N.S. to regulate the establishment of medical marijuana dispensaries; and

WHEREAS, In 2002, the Berkeley City Council unanimously passed a resolution directing the Berkeley Police Department not to cooperate with the Drug Enforcement Administration (DEA) in investigations of medical marijuana dispensaries; and

WHEREAS, In 2003, the state legislature passed SB 420, the Medical Marijuana Program Act (MMPA), codified as section 11362.7 of the California Health and Safety Code, in order to further clarify the rights bestowed by the CUA, and provide greater protection for qualified patients and primary caregivers, in part by explicitly recognizing and protecting collective and cooperative cultivation of medical marijuana; and

WHEREAS, In 2004, the Berkeley City Council amended the Berkeley Municipal Code Chapter 12.26 to regulate the number and location of medical cannabis dispensaries; and

WHEREAS, As affirmed by the California Court of Appeal, Third Appellate District, in the matter of *People v. Urziceanu* (2005) 132 Cal.App.4th 747, the State of California recognizes The Compassionate Use Act contemplates the formation and operation of medical marijuana cooperatives that would receive reimbursement for marijuana and the services provided in conjunction with the provision of that marijuana; and

WHEREAS, The State of California has recognized medical marijuana dispensaries and collectives as retailers required to collect, report, and remit tax on the sales of medical marijuana and the revenues derived from those sales to the Board of Equalization and the Franchise Tax Board; and

WHEREAS, Despite the adoption of the CUA and MMPA in California, and the recognition of dispensaries as legally taxable entities, nevertheless a terminally ill patient may still be prosecuted under federal law for possessing cannabis for medicinal use, and dispensary operators still face federal persecution; and

WHEREAS, The federal government continues to classify all forms of cannabis as Schedule I under the federal Controlled Substances Act and therefore does not recognize medical marijuana; and

WHEREAS, The federal government has recently increased its campaign of interference, undermining the successful implementation of California's medical marijuana laws in Berkeley; the DEA has launched a campaign of threatening, raiding, seizing the property of, prosecuting under federal law, and forcing the closure of scores of legitimate medical cannabis providers in California, including more than 30 raids since June 2007 in at least 11 different counties, and

WHEREAS, Seizures of assets of medical marijuana dispensaries and collectives effectively have blocked payments of taxes to the State of California and the City of Berkeley, and

WHEREAS, The DEA has employed the tactic of threatening property owners in Berkeley and other parts of the state with asset forfeiture and federal prosecution if they continue to lease property to medical cannabis providers; and

WHEREAS, The recent, escalated activities of the Drug Enforcement Agency to shut down medical marijuana dispensaries and collectives by targeting their landlords and seizing their landlords' properties will have serious consequences, including, but not limited to: thousands of Berkeley patients will no longer be able to access medical marijuana as recommended by their physicians; established MCDs will be forced to close or move underground; hundreds of dispensary workers statewide will lose well-paying jobs with benefits, and many of these workers will apply for unemployment aid during a time of fiscal crisis in the state of California; and the state and the City of Berkeley will lose significant amounts of tax revenue; and

WHEREAS, In the matter of *Gonzales v. Raich*: 545 U.S. 1, 125 S. Ct. 2195, 162 L. Ed. 2d 1, the United States Supreme Court upheld the authority of the Drug Enforcement Agency to conduct these raids, but it left state medical marijuana laws intact; and

WHEREAS, Since the U.S. Supreme Court decision in *Gonzales v. Raich* in 2005, the federal government has indicted more than one hundred patients and providers of medical cannabis, and because of medical evidence being inadmissible in federal court, patients and providers that are indicted are unable to adequately defend themselves, and juries are prevented from hearing all of the facts; and

WHEREAS, In 1998, Berkeley's neighbor to the west, the City and County of San Francisco, requested "all pertinent city agencies to coordinate an emergency distribution program of medicinal marijuana to ensure a continuum of access to medicinal marijuana as provided by the passage of the Compassionate Use Act of 1996;" and

WHEREAS, In 2001, the City and County of San Francisco adopted Resolution 955-01, establishing itself as "a sanctuary for medical cannabis," and setting a compassionate precedent for other California cities to follow, and

WHEREAS, In December 2007, Representative John Conyers, Chairman of the U.S. Senate Judiciary Committee, called for hearings into the DEA's tactics, saying, "I am deeply concerned about recent reports that the Drug Enforcement Administration is threatening private landlords with asset forfeiture and possible imprisonment if they refuse to evict organizations legally dispensing medical marijuana to suffering patients. The Committee has already questioned the DEA about its efforts to undermine California state law on this subject and we intend to sharply question this specific tactic as part of our oversight efforts," and

WHEREAS, On January 10, 2008, State Senator Carole Migden introduced Senate Joint Resolution 20 (SJR 20), which calls on Congress and the President of the United States to enact legislation requiring the Drug Enforcement Agency and all other federal agencies and departments to respect the compassionate use laws of states, including returning any assets seized from medical marijuana dispensaries;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that the City of Berkeley is declared to be a sanctuary for medicinal cannabis to seek to ensure that patients continue to have safe access to their vital medicine; and

BE IT FURTHER RESOLVED, That the City of Berkeley does not support cooperation with the Drug Enforcement Administration in its efforts to undermine state and local medical marijuana laws, and further calls upon the Berkeley Police Department, the District Attorney for the County of Alameda, the Alameda County Sheriff's Department, and the Attorney General for the State of California to uphold the laws of the State, and specifically not to assist in the harassment, arrest or prosecution of physicians, medical cannabis dispensaries, individual patients, or their primary caregivers whether in Berkeley or any other part of the state who are attempting to comply with section 11362.5 and 11362.7 of the California Health and Safety Code; and

BE IT FURTHER RESOLVED, That the City of Berkeley urges Governor Arnold Schwarzenegger to stand with the more than 200,000 California patients who rely on medical marijuana, and to prevent any further interference by the federal Drug Enforcement Administration in the successful implementation of state and local laws, and that Governor Schwarzenegger make it known to the Bush Administration and the U.S. Congress that such interference is uncalled for and will be resisted by local and state government; and

BE IT FURTHER RESOLVED, That in the event the U.S. Drug Enforcement Agency closes one or more of Berkeley's permitted medical marijuana dispensaries; and that should it be necessary, the City shall seek to ensure a continuum of access to medical marijuana as provided by the CUA and MMPA; and

BE IT FURTHER RESOLVED, That the City Attorney transmit copies of this resolution to the State Attorney General, to the Governor of California, and to each Senator and Representative from California in the United States Congress.

Exhibits

A. San Francisco Resolution 955-01 and Senate Joint Resolution 20

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<http://www.latimes.com/news/local/la-me-medpot26jul26.0,777205.story?coll=la-home-center>

DEA RAIDS 10 Pot Shops



Myung J. Chun / LAT

California Patients Group, in Hollywood, was one of the locations targeted Wednesday by the DEA. Agents hit the medical marijuana dispensaries shortly after the L.A. City Council bars new facilities for a year to write better regulations.

By Steve Hymon, Times Staff Writer
July 26, 2007

The gap between state and federal drug laws became apparent again Wednesday when federal agents raided 10 local medical marijuana facilities only minutes after the Los Angeles City Council placed a moratorium on new facilities so rules could be drafted to better regulate them.

The ban is for one year, but the council can extend it for another year.

The city move was widely applauded by medical marijuana activists who believe that having a solid set of rules will help prevent future city crackdowns and ensure that dispensaries remain open.

But state or local laws have no effect on federal activities.

Although voters in California approved the use of medical marijuana in 1996 and said users should not be subject to criminal prosecution, it remains illegal under federal law to possess, sell or cultivate marijuana and neither the federal nor

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state courts have resolved the matter.

Drug Enforcement Administration officers served a search warrant on facilities across Los Angeles County, including the California Patients Group in Hollywood, said DEA spokeswoman Sarah Pullen. The timing of the raid was not intended to coincide with the council vote, she said.

"These are ongoing enforcement operations. As far as we know, we've been planning this for some time," Pullen said.

The Los Angeles Police Department was on hand to patrol the perimeter, as it often does as a courtesy to federal agencies.

LAPD officers arrested five people demonstrating outside the California Patients Group dispensary, Lt. Ruben De La Torre said. Four of the arrests were for blocking a DEA vehicle and failing to comply with orders from a police officer to move. The other arrest was for vandalizing a police car.

Don Duncan, operator of the Hollywood dispensary, was the first activist to testify at Wednesday's council meeting. He also is a board member of Americans for Safe Access, a pro-medical marijuana group.

"It's disgusting that sick people would be subjected to this right here in Los Angeles," Duncan said.

Pullen said that although medical marijuana was legalized by state voters, the DEA has been enforcing federal laws. The agency has ramped up efforts recently because the number of dispensaries has grown to more than 400 in Los Angeles County and the surrounding area, she said.

The DEA and other agencies earlier this month issued indictments against six men, alleging that they participated in selling marijuana at dispensaries throughout the state, including two such stores in West Hollywood.

In response to a request from the council, the office of City Atty. Rocky Delgadillo reported earlier this year that at least 98 dispensaries are in Los Angeles, although some activists believe there are more.

The report also found that 12 dispensaries were near schools or day-care centers.

City Councilman Dennis Zine said the temporary ban was designed to protect patients' rights while drawing up rules to protect communities where dispensaries are located.

Several dozen medical marijuana activists attended the council meeting to

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support the temporary ban. No one spoke against it.

Activist Sarah Armstrong said that she often has to travel from her home in Ventura County to Los Angeles to obtain medical marijuana to help relieve pain from arthritis she said was the result of a 1989 car crash.

Cities and police agencies in Ventura County and others in Southern California have been far less tolerant of the dispensaries, which is why most in the region are in L.A. County.

steve.hymon@latimes.com

http://origin.insidebayarea.com/oaklandtribune/localnews/ci_6515176

Oakland Tribune
August 1, 2007

Feds, LAPD freeze Berkeley pot club's assets

Council members call for new laws to protect marijuana businesses
By Paul T. Rosynsky

BERKELEY -- A city-sanctioned medical marijuana dispensary had its assets frozen this week, prompting some city council members to call for new city laws protecting such businesses.

The Berkeley Patient Group was notified Monday that its bank account was frozen by the Los Angeles Police Department during a joint operation with the Drug Enforcement Agency. The operation targeted about 10 dispensaries in Los Angeles, including the California Patients Group, a sister organization to the Berkeley-based business.

The frozen accounts prevent the group from accessing cash it had saved to pay state sales taxes.

"We are a legally licensed dispensary, to be targeted like this is absurd," said Debby Goldsberry, spokesperson for the group. "They snuck in quietly and took all of our assets. We want them back."

The asset freeze appears to be connected to a raid of Los Angeles-based dispensaries conducted by the DEA last week, said Sarah Pullin, a spokesperson for the DEA-Los Angeles.

"They are associated with one of the ones we served last week," Pullin said. "I know they are in the process of freezing assets to eventually seize assets."

A spokesperson at the Los Angeles Police Department said no one was available to comment.

Pullin said she could not comment on how much money was seized or what was found during the raids in Los Angeles because the warrants remain under court seal.

Goldsberry said the group wants its money back because it serves a public health need and is legal under state and city laws.

The Berkeley Patients Group serves more than 5,000 medical marijuana

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clients in Berkeley and Oakland. It is one of three legalized dispensaries in the city and also provides community services such as a hospice and free delivery of organic fruit and vegetables to hospice clients.

City Council member Kriss Worthington said the city should do all it can to protect the group and the two other dispensaries now operating in the city.

Although no city has ever devised a legal strategy to combat federal laws against the use of marijuana for medical purposes, Worthington said Berkeley should work to do all it can.

"We're not sure what we can do that will give us meaningful protection, but we want to make sure it has some chance of protecting the club," he said. "There is a whole lot of other, better things the DEA can be doing with taxpayer money."

Worthington was joined by council members Darryl Moore and Max Anderson in calling for a new city ordinance.

Meanwhile, Goldsberry said the group will try to appeal to the DEA's "human side" to get its money back.

"We are doing the best we can to serve the patient community that depends on us," she said. "We need to send a strong message from our community that the DEA is not welcomed here."

DRAFT: SENATE JOINT RESOLUTION

WHEREAS, In 1996, California voters approved Proposition 215, The Compassionate Use Act, to exempt patients and caregivers from certain criminal penalties when they possess or cultivate marijuana for medical use as recommended by a physician; and

WHEREAS, The California State Legislature subsequently established the Medical Marijuana program to further the provisions of Proposition 215, whereby persons with an identification card and the person's designated primary caregiver are exempt from arrest for possession, transportation, delivery, or cultivation of marijuana for medical use; and

WHEREAS, In enacting the Medical Marijuana Program, the California State Legislature expressly stated its intent to enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects, and to address additional issues that were not included in The Compassionate Use Act and that must be addressed to promote the fair and orderly implementation of that Act; and

WHEREAS, Local governments throughout California have worked with dispensaries to ensure medical marijuana may be provided to seriously and terminally ill patients in a non-disruptive manner; and

WHEREAS, Eleven other states --- Alaska, Colorado, Hawaii, Maine, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington --- have enacted laws similar to that of the State of California that effectively remove state-level criminal penalties for growing and/or possessing medical marijuana; and

WHEREAS, As affirmed by the California Court of Appeal, Third Appellate District, in the matter of *People v. Urziceanu* (2005) 132 Cal.App.4th 747, the State of California recognizes The Compassionate Use Act contemplates the formation and operation of medical marijuana cooperatives that would receive reimbursement for marijuana and the services provided in conjunction with the provision of that marijuana; and

WHEREAS, The State of California has recognized medical marijuana dispensaries and collectives as retailers required to collect, report, and remit tax on the sales of medical marijuana and the revenues derived from those sales to the Board of Equalization and the Franchise Tax Board; and

WHEREAS, The Drug Enforcement Agency of the United States Department of Justice has conducted raids and shut down dozens of medical marijuana dispensaries and collectives in California since 2005, with 28 of these raids

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occurring since June 2007 in 11 different counties; and

WHEREAS, The medical marijuana dispensaries and collectives in California shut down by the Drug Enforcement Agency had been licensed by local governments and reporting and paying sales taxes to the Board of Equalization and reporting and paying income taxes to the California Franchise Tax Board and the federal Internal Revenue Service; and

WHEREAS, Seizures of assets of these medical marijuana dispensaries and collectives effectively have blocked payments of taxes to the State of California; and

WHEREAS, The recent, escalated activities of the Drug Enforcement Agency to shut down medical marijuana dispensaries and collectives by targeting their landlords and seizing their landlords' properties will have serious consequences, including, but not limited to: thousands of California patients will no longer be able to access medical marijuana as recommended by their physicians because these businesses will be forced to close or move underground for unregulated operations; the state and municipalities will lose millions of dollars in tax revenue; and thousands will lose well-paying jobs with benefits; and

WHEREAS, The federal government continues to classify all forms of cannabis as Schedule I under the federal Controlled Substances Act and therefore does not recognize medical marijuana; and

WHEREAS, Historic practice and scientific research have demonstrated medical marijuana alone or in combination with other drugs is an effective treatment for nausea reduction for patients with cancer and Acquired Immune Deficiency Syndrome; increasing appetite for patients with nausea or other conditions causing dangerous weight loss; reducing eye pressure in patients with glaucoma; and controlling muscle spasms, seizures, and chronic muscular pain; and

WHEREAS, In the matter of *Gonzales v. Raich*: 545 U.S. 1, 125 S. Ct. 2195, 162 L. Ed. 2d 1, the United States Supreme Court upheld the authority of the Drug Enforcement Agency to conduct these raids, but it left state medical marijuana laws intact; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature respectfully memorializes the Congress and President of the United States to enact legislation to require the Drug Enforcement Agency and all other federal agencies and departments to respect the compassionate use laws of states, including returning any assets seized from medical marijuana dispensaries and collectives to the states in which they are located; and be it further

Resolved, That the Legislature respectfully memorializes all federal law

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enforcement agencies to enforce federal drug laws relating to medical marijuana dispensaries and collectives in a manner consistent with the laws of the State of California and its municipalities within the confines of the provisions of The Compassionate Use Act and the Medical Marijuana Program; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

As amended in Committee 11/27/01

FILE NO. 012006

RESOLUTION NO. 955-01

1 [Sanctuary for Medical Cannabis]
2

3 **Resolution declaring the City and County of San Francisco a sanctuary for medical**
4 **cannabis use, cultivation, and distribution, and urging the District Attorney for the City**
5 **and County of San Francisco, the San Francisco Police Department, the San Francisco**
6 **Sheriff's Department, the Attorney General for the State of California, and the California**
7 **Department of Consumer Affairs – Medical Board of California not to assist in the**
8 **harassment, arrest or prosecution of physicians, medical cannabis dispensaries,**
9 **individual patients, or their primary caregivers attempting to comply with section**
10 **11362.5 of the California Health and Safety Code.**
11

12 WHEREAS, In 1972, the voters of the City and County of San Francisco supported by
13 51 percent Proposition 19, the California Marijuana Initiative, which stated that no one in the
14 State of California eighteen years of age or older shall be punished in any way for growing,
15 processing, transporting, or possessing marijuana for personal use, or for using it; and,

16 WHEREAS, In 1978, the voters of the City and County of San Francisco passed by 57
17 percent Proposition W, which stated that the people of the City and County of San Francisco
18 demand that the District Attorney and the Chief of Police cease the arrest and prosecution of
19 individuals involved in the cultivation, transfer or possession of marijuana; and,

20 WHEREAS, In 1991, the voters of the City and County of San Francisco passed by 80
21 percent Proposition P, which stated that the people of the City and County of San Francisco
22 recommended that the State of California and the California Medical Association restore hemp
23 medical preparations to the list of available medicines in California, and that licensed
24 physicians should not be penalized for or restricted from prescribing hemp preparations for
25 medical purposes; and,

Supervisors Leno, Maxwell, Gonzalez, Yee, Daly, Newsom, Ammiano, McGoldrick,
BOARD OF SUPERVISORS Peskin

1 WHEREAS, In 1992, the Board of Supervisors of the City and County of San Francisco
2 urged the Mayor to urge the Police Commission and the District Attorney of the City and
3 County of San Francisco to make lowest priority the arrest or prosecution of those involved in
4 the possession or cultivation of hemp for medicinal purposes; and

5 WHEREAS, In 1996, the voters of the City and County of San Francisco supported by
6 78 percent Proposition 215, the Compassionate Use Act of 1996, which exempted patients
7 and defined caregivers who possess or cultivate marijuana for medical treatment
8 recommended by a physician from criminal laws which otherwise prohibit possession or
9 cultivation of marijuana; provided that physicians who recommend use of marijuana for
10 medical treatment shall not be punished or denied any right or privilege; and declared that the
11 measure not be construed to supercede prohibitions of conduct endangering others or to
12 condone diversion of marijuana for non-medical purposes; and,

13 WHEREAS, In 1997, the Health Commission of the City and County of San Francisco
14 resolved that the San Francisco Department of Public Health will facilitate implementation of
15 the Compassionate Use Act of 1996; and,

16 WHEREAS, In 1997, the Board of Supervisors of the City and County of San Francisco
17 authorized the City to pay for the defense of Department of Public Health physicians in federal
18 criminal and administrative proceedings when those physicians recommend medical
19 marijuana to their patients; and,

20 WHEREAS, In 1998, the Board of Supervisors of the City and County of San Francisco
21 requested all pertinent City agencies to coordinate an emergency distribution program of
22 medicinal marijuana to ensure a continuum of access to medicinal marijuana as provided by
23 the passage of the Compassionate Use Act of 1996; and,

24 WHEREAS, In 1998, the Board of Supervisors of the City and County of San Francisco
25 urged the San Francisco City Attorney and District Attorney to create legislation establishing a

1 San Francisco Health Model for the Implementation of the Compassionate Use Act of 1996
2 and allowing the City and County of San Francisco to legally provide medicinal marijuana for
3 compassionate use purposes; and,

4 WHEREAS, In 1999, the Health Commission of the City and County of San Francisco
5 supported the development, implementation and monitoring of a voluntary Medical Cannabis
6 Identification Card Program by the San Francisco Department of Public Health; and,

7 WHEREAS, In 2000, the Board of Supervisors of the City and County of San Francisco
8 passed an ordinance amending the San Francisco Health Code to authorize the Department
9 of Public Health of the City and County of San Francisco to issue medical cannabis
10 identification cards to individuals who qualify under the Compassionate Use Act of 1996 as
11 users of medical cannabis or as primary caregivers to medical cannabis users; and,

12 WHEREAS, On July 23, 2001 Rep. Barney Frank (D-Mass) introduced a Bill in the
13 United States House of Representatives (H.R. 2592) which would move cannabis from
14 schedule I to schedule II of the Controlled Substances Act; and,

15 WHEREAS, H.R. 2592 would also provide that no provision of the Controlled
16 Substances Act or the Federal Food, Drug, and Cosmetic Act shall prohibit a State from
17 allowing physicians to prescribe or recommend cannabis for medical use, from allowing
18 individuals to obtain and use medical cannabis, from allowing pharmacies to obtain and hold
19 cannabis for the prescription or recommendation by a physician, or from establishing an entity
20 which may produce and distribute medical cannabis; and,

21 WHEREAS, Many residents of the City and County of San Francisco are or will
22 become seriously ill with cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis,
23 migraine, or other medical conditions for which cannabis may provide relief; and

24 WHEREAS, The medical use of cannabis may benefit the health of residents of the
25 City and County of San Francisco with medical conditions; and,

1 WHEREAS, The City and County of San Francisco supports the rights of persons with
2 medical conditions to obtain and use cannabis for medical purposes where that medical use is
3 deemed appropriate and has been recommended by a physician who has determined that the
4 person's health would benefit from the use of cannabis in the treatment of an illness or
5 medical condition for which cannabis provides relief; now, therefore, be it

6 RESOLVED, That the City and County of San Francisco is declared to be a sanctuary
7 for medical cannabis; and, be it

8 FURTHER RESOLVED, That the District Attorney for the City and County of San
9 Francisco, the San Francisco Police Department, the San Francisco Sheriff's Department, the
10 Attorney General for the State of California, and the California Department of Consumer
11 Affairs – Medical Board of California are urged not to assist in the harassment, arrest or
12 prosecution of physicians, medical cannabis dispensaries, individual patients, or their primary
13 caregivers attempting to comply with section 11362.5 of the California Health and Safety
14 Code.

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 012006

Date Passed:

Resolution declaring the City and County of San Francisco a sanctuary for medical cannabis use, cultivation, and distribution, and urging the District Attorney for the City and County of San Francisco, the San Francisco Police Department, the San Francisco Sheriff's Department, the Attorney General for the State of California, and the California Department of Consumer Affairs - Medical Board of California not to assist in the harassment, arrest or prosecution of physicians, medical cannabis dispensaries, individual patients, or their primary caregivers attempting to comply with section 11362.5 of the California Health and Safety Code.

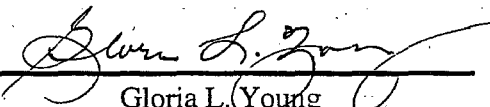
December 3, 2001 Board of Supervisors — ADOPTED

Ayes: 10 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Newsom,
Peskin, Sandoval, Yee

Noes: 1 - Hall

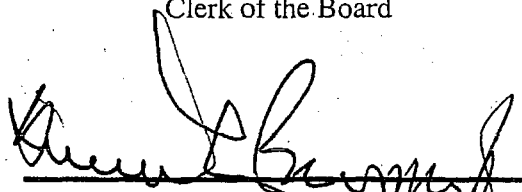
File No. 012006

I hereby certify that the foregoing Resolution was ADOPTED on December 3, 2001 by the Board of Supervisors of the City and County of San Francisco.


Gloria L. Young
Clerk of the Board

DEC 07 2001

Date Approved


Mayor Willie L. Brown Jr.