

TO: James L. App, City Manager
FROM: Lisa Solomon, Chief of Police
SUBJECT: Opposition to Proposition 19 – California Marijuana Legalization Initiative
DATE: August 17, 2010

NEEDS: For the City Council to consider opposing the “Regulate, Control, and Tax Cannabis Act of 2010” ballot measure (a.k.a., Proposition 19).

- FACTS:**
1. Federal laws classify marijuana as an illegal substance and provide criminal penalties related to its possession and use.
 2. Under current California law, possession, cultivation or distribution of marijuana is generally illegal and penalties for marijuana related activities vary depending on the offense (i.e. possession of less than one ounce of marijuana is a misdemeanor punishable by a fine, while selling marijuana is a felony which may result in a prison sentence).
 3. In November 1996, California voters approved Proposition 215, the Compassionate Use Act (CUA), which provides a legitimate defense for the possession of marijuana for medical purposes.
 4. In 2005, the U.S. Supreme Court ruled that federal authorities could continue to prosecute California medical marijuana patients for violation of federal law; however, the U.S. Department of Justice recently elected not to prosecute marijuana patients and providers whose actions are consistent with the California CUA.
 5. In 2007, the City of Paso Robles established an ordinance prohibiting medical marijuana dispensaries within the city limits.
 6. The proposed state ballot measure (Proposition 19) would change the law in California to 1) legalize the possession and cultivation of limited amounts of marijuana for personal use by individuals age 21 or older, and 2) authorizes various commercial marijuana-related activities under certain conditions.
 7. Currently no other state permits commercial marijuana-related activities for non-medical purposes.

ANALYSIS &

CONCLUSION: The City of Paso Robles has actively worked to minimize the impacts of the CUA on our community. The City enacted an ordinance to prohibit dispensaries, and actively opposed the establishment of a dispensary in the county area close to the

boundaries of the City. If Proposition 19 were to pass, cannabis use for any means, not just for medicinal purposes, would be allowed.

Under this measure, persons age 21 or older may possess, process, share or transport up to one ounce of marijuana; cultivate marijuana on private property in an area up to 25 square feet per private residence or parcel; possess harvested and living marijuana plants cultivated in such an area; and possess any items or equipment associated with the above activities. State and local law enforcement could not seize or destroy marijuana from persons in compliance with the measure.

In addition, this act states that no individual could be punished, fined or discriminated against for engaging in any conduct permitted by the measure. While the measure states that employers shall continue to have the right to address consumption that "actually impairs job performance," this standard will make it much more burdensome for all private and public employers to monitor and enforce, and could potentially jeopardize public safety. In many instances, it would mean employers would not be able to screen job applicants for marijuana use. Employers could not implement preventative measures and disciplinary action until an incident occurred warranting drug testing.

Furthermore, this limitation would financially impact the City of Paso Robles, as well as some businesses, research institutions and other public agencies, which would be disqualified from receiving federal grants and/or contracts greater than \$100,000 because of the inability to comply with the Federal Drug-Free Workplace Act of 1988.

In addition, a recent study by Al Crancer, Jr., a retired research analyst for the National Highway Traffic Safety Administration (NHTSA), has found that the number of traffic fatalities involving marijuana use in the five years following the passage of the CUA doubles from the five years prior to its passage. He estimates that passage of this measure might triple the amount of marijuana-related traffic deaths on California highways.

In essence, the poor wording of this ballot measure will result in a threat to public safety by limiting the ability to enforce current laws related to being under the influence of cannabis.

POLICY

REFERENCE: PRMC 21.33.030

FISCAL

IMPACT: None

OPTIONS:

- a. Adopt Resolution No. 10-xx in opposition of the California ballot measure entitled "Regulate, Control, and Tax Cannabis Act of 2010" which will appear on the November 2, 2010 election ballot as Proposition 19.
- b. Amend, modify, or reject the above option.

RESOLUTION NO. 10-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
OPPOSING PROPOSITION 19, THE "REGULATE, CONTROL AND TAX CANNABIS ACT OF 2010"
ON THE NOVEMBER 2010 STATEWIDE BALLOT

WHEREAS, Proposition 19, the "Regulate, Control and Tax Cannabis Act of 2010," will prevent private and public employers from being able to comply with federal drug-free workplace rules, thereby resulting in the loss of millions of dollars in federal grants to local government and contracts to California businesses, as well as the loss of federal research grants to California colleges and universities; and

WHEREAS, the "Regulate, Control and Tax Cannabis Act of 2010" severely limits employers from being able to take any disciplinary action against employees who come to work under the influence of marijuana; and

WHEREAS, the "Regulate, Control and Tax Cannabis Act of 2010" would allow commercial truck drivers, public transportation operators, doctors, nurses, heavy equipment operators, bus drivers, police officers and others upon whom the safety of the public depends, to be under the influence of marijuana while performing their jobs; and,

WHEREAS, a recent study indicates that passage of Proposition 19 could significantly increase the number of traffic fatalities related to marijuana use, thus endangering public safety; and

WHEREAS, Proposition 19 allows local jurisdictions to set their own rules for regulation, which would create a hodge-podge of different and confusing rules for law enforcement;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of El Paso de Robles opposes Proposition 19, the ballot measure to legalize marijuana in California on the November 2, 2010 ballot.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 17th day of August 2010 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk