



NEVADA COUNTY BOARD OF SUPERVISORS

Board Agenda Memo

MEETING DATE: January 12, 2016

TO: Board of Supervisors

FROM: Keith Royal, Sheriff-Coroner-Public Administrator

SUBJECT: Introduction and Adoption of an Urgency Ordinance Amending the Title and Sections G-IV 5.2 through G-IV 5.5 of Article 5 of Chapter IV of the Nevada County General Code Regarding Restrictions on Marijuana Cultivation (4/5 affirmative vote required)

RECOMMENDATION: Introduce and Adopt the Urgency Ordinance

FUNDING: NA

BACKGROUND:

In 2012, the Nevada County Board of Supervisors recognized the need for a County wide ordinance regulating the cultivation of marijuana for medicinal use by the residents. Since adoption of that ordinance, surrounding local agencies, both county and city, have either adopted complete bans on the cultivation of marijuana or are contemplating some form of regulation. This is enticing growers from outside of our County to see us as a very attractive location. Without the protection of this proposed amendment, Nevada County may become fair game and subsequently overrun with uncontrollable marijuana cultivation that could affect our community and its heirs, for years or decades to come. While there may be a growing push towards State-wide legalization, it has become increasingly apparent the only ones in favor of having it located in Nevada County's back yards are those growing it.

It is well known in certain circles, that Nevada County is the place to go if you want to cultivate marijuana. The need behind the Ordinance, passed in 2012, was to regulate the cultivation of marijuana so as to allow our residents to have safe and reasonable access to medical marijuana and to help protect them from criminal prosecution. Since the adoption of Article 5 Chapter IV of the Nevada County General Code regarding Medical Marijuana Cultivation, the County has witnessed an increase in the number of

marijuana cultivations and crimes associated with that activity. Since 2010, the unincorporated area of the County witnessed several murder investigations directly related to marijuana cultivation. There have been a number of home invasion robberies where the focus of the theft was either marijuana or the cash from its sale. Additionally, the number of Butane Honey Oil labs took a dramatic upturn, with one location damaged as a result of an explosion. Several complaint driven inspections quickly turned into criminal investigations based on either size, purpose or some other illegal activity directly connected to the cultivation.

In 2015, the number of nuisance complaints received increased from the prior year. The Sheriff's Office saw numerous grow sites on parcels with no legal residence. Even working two fulltime Deputy Sheriff's on compliance checks, the Sheriff's Office was only able to investigate slightly less than half of the parcels reported. Outdoor cultivation represented the vast majority of marijuana complaints. Each parcel that is investigated requires several hours of investigative work, often times involving several personnel; this includes investigating the complaint, an on-site visit, off-site follow-up, completing and delivering correspondence, attending abatement hearings and following up on any abatement orders. Occasionally, abatement officers encounter growers who are very resistant to comply and refuse access, which creates the additional step of securing a search warrant from the court to allow access to the property. The end result is a laborious process. The unbridled outdoor cultivation is having a direct impact on the quality of life in Nevada County. Some of the complainants have requested to remain anonymous, fearing retribution from growers. Banning outdoor cultivation would simplify enforcement and return to neighborhoods their previous enjoyment of outdoor activities and the feeling of safety in their neighborhoods.

The current industry of marijuana cultivation in Nevada County consists of numerous residents and numerous non-resident transients. It is arguable that the non-residents didn't move to this County nor are they living in this County for the purpose of creating a home and to become a part of our small community. Their purpose here is to cultivate while they are allowed to, and move on when they are not. In some instances they leave unpermitted clear cut land, soil erosion, depressed real estate values, and contribute to increased criminal activity. Since they have no stake in this community, they don't seem to care what affect they have on us. Some have found the property through various Internet Web Sites that specialize in property for marijuana cultivation. There is also one or more areas of the County that seem to have been unusually inundated by marijuana to the extent they have garnered nicknames, such as the community of Big Oak Valley. There are citizens in the County who were certainly in favor of Proposition 215 in 1996, but could not imagine the impact on our neighborhoods; some of those people have now expressed regret in voting for that proposition after seeing the impact it has had.

There is undeniably a large percentage of marijuana exported from Nevada County to either other counties within the State and/or to other states; none of the County's medical patients are benefiting from marijuana that is being exported. Much of the sales of marijuana is handled via cash transactions which illegally bypass the income tax requirements; again, there is no benefit to the community when growers are not paying their fair share of taxes that help pay for the community services that are benefiting them such as schools, roadways, and fire departments to name a few.

Our county still provides a very habitable geographical environment for the cultivation of marijuana, but water consumption has been a concern as of late, especially in light of the current drought conditions Nevada County faces. There is plenty of discussion on how much or how little one marijuana plant requires during its growing season in order to produce a quantity of useable product. Proponents of cultivation urge that the drought should not be used as an excuse to vilify marijuana, as they say their water consumption numbers prove marijuana is a water conscious crop. However, the exact amount of water used by the marijuana cultivation industry and how it compares to other crops is irrelevant to the drought conditions. The important issue to consider is with the ever expanding number of cultivations, marijuana is further exasperating the current drought dilemma facing every industry in California and Nevada County by further tasking this precious resource. There have even been a few residents who have seen a diminished water capacity or their existing well has simply stopped producing water, after their neighbor has installed a well to water a marijuana crop.

Of important concern is the additional urgency placed on our County with the enactment of AB 243 on October 9, 2015 by the State of California, regulating medical marijuana cultivation. This bill became effective January 1, 2016 and includes a March 1, 2016 deadline for our County, in particular, to establish local regulations pertaining to cultivation of marijuana. If Nevada County misses this deadline, the State of California will be the sole licensing authority.

While the existing marijuana cultivation ordinance has helped curb the unregulated industry, the issues laid out above calls attention to the need to address marijuana in a much simpler and obvious manner. By banning all outdoor marijuana cultivation in Nevada County and only amending certain aspects of indoor medical marijuana regulations within a legal structure, it will allow patients, and those who grow for them, continued access while limiting or at least minimizing the unlawful activity we are currently experiencing as a community. It will also allow the law enforcement to focus its limited resources on other issues of concern so as to further improve the quality of life in our county.

Initiated and Approved by: Keith Royal