

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Supervisor Benoit, Supervisor Stone

**SUBMITTAL DATE:** December 9, 2010

**SUBJECT:** Repeal of Orders Initiating an Ordinance and Ordinance Amendment Regulating the Collective or Cooperative Cultivation of Marijuana for Medical Purposes (3.52 of 9/14/10)

**RECOMMENDED MOTION:** That the Board of Supervisors repeal its September 14, 2010 orders initiating an ordinance and an ordinance amendment that would regulate the collective or cooperative cultivation of marijuana for medical purposes.

**BACKGROUND:**

On September 14, 2010, the Board adopted an order initiating a new ordinance that would regulate the collective or cooperative cultivation of marijuana for medical purposes; adopted an order initiating an amendment to Ordinance No. 348 that would regulate the collective or cooperative cultivation of marijuana for medical purposes; and directed specific County departments to prepare and process the ordinance and ordinance amendment. The Board's initiation orders were made pursuant to Board Policy A-67 (Initiation of Ordinances and Ordinance Amendments), the purpose of which is to ensure that the County does not expend its limited resources without the prior authorization of a Board majority. By adopting the initiation orders, the Board did not pre-commit to support or approve the actual ordinance or ordinance amendment. The Board merely authorized the specified County departments to prepare and process the ordinance and ordinance amendment for the Board's consideration. In the interim, it was understood that the County's current ban on medical marijuana dispensaries set forth in Section 3.3 of Ordinance No. 348 would remain in effect.

(continued on next page)

  
John J. Benoit, Fourth District Supervisor

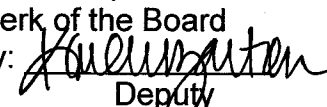
  
Jeff Stone, Third District Supervisor

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Benoit, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: December 14, 2010  
xc: Supvr. Stone, Supvr. Benoit, Co.Co. Auditor

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

**3.65**

## Form 11

**SUBJECT:** Repeal of Orders Initiating an Ordinance and Ordinance Amendment Regulating the Collective or Cooperative Cultivation of Marijuana for Medical Purposes.

Since September 14, 2010, all of the following events have occurred:

Los Angeles and Orange counties have banned medical marijuana dispensaries;

San Bernardino County has adopted a moratorium banning the issuance of any entitlements that would authorize any use or development of property for medical marijuana dispensaries;

A Riverside County Superior Court judge has ruled that the City of Riverside is authorized to use its zoning power to ban medical marijuana dispensaries (Riverside County Superior Court Case No. RIC 10009872);

A different Riverside County Superior Court judge has denied a medical marijuana dispensary's request to immediately halt enforcement of the City of Wildomar's ban on medical marijuana dispensaries (Riverside County Superior Court Case No. RIC 10022476); and

The Governor has approved Assembly Bill 2650 which amends the Health and Safety Code to add section 11362.768 regarding the location of medical marijuana cooperatives, collectives, dispensaries, and establishments. Subsection (f) of Section 11362.768 provides, "Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider." [Emphasis added.]

In the past year, numerous medical marijuana dispensaries have opened in Riverside County. These dispensaries are run by groups claiming that they may operate notwithstanding the County's ban, and without the County's approval, because they are collectively or cooperatively cultivating marijuana within the meaning of the Compassionate Use Act and the Medical Marijuana Program Act. The purpose of the ordinance and ordinance amendment that the Board initiated was to regulate these dispensaries. We are concerned, however, that the number of these dispensaries will increase exponentially in light of the events described above. As bans are created and maintained in surrounding jurisdictions, dispensary operators will flock to the County and the County will disproportionately bear the cost and burden of regulation. Even the most well-crafted ordinance will present opportunities for violation and the adverse secondary effects of marijuana dispensaries are well documented. As the California Police Chief's Association noted in its 2009 "White Paper on Marijuana Dispensaries" the following specific adverse effects are likely occur: traffic, noise, drug dealing, burglaries, robberies, money laundering and firearms violations.

Given the County's current budgetary constraints and the fact that no California court has barred a local jurisdiction from banning medical marijuana dispensaries, we believe that the County's limited resources would best be utilized enforcing the County's current ban on medical marijuana dispensaries rather than on drafting, implementing and enforcing a new ordinance and ordinance amendment regulating the collective or cooperative cultivation of medical marijuana.

Under the California Constitution (Art. I § 7), the County may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws. This includes the power to adopt regulations that supplement state law. The County has broad discretion to determine what is reasonable to protect the public health, safety, morals and general welfare of the community. Neither the Compassionate Use Act nor the Medical

**Form 11**

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Marijuana Program Act expressly restricts a local government's ability to enact and enforce land use or zoning laws affecting medical marijuana dispensaries.

**Riverside County Board of Supervisors  
Request to Speak**

Submit request to Clerk of Board (right of podium).  
Speakers are entitled to three (3) minutes, subject  
Board Rules listed on the reverse side of this form.

**SPEAKER'S NAME:** Angela Smith

**Address:** 4146 16<sup>th</sup> St  
(only if follow-up mail response requested)

**City:** Riverside **Zip:** 92501

**Phone #:** 573-746-6300

**Date:** 12-14-10 **Agenda #** 3.65

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

       **Support**      X   **Oppose**           **Neutral**

**Note:** If you are here for an agenda item that is filed  
for "Appeal", please state separately your position on  
the appeal below:

       **Support**           **Oppose**           **Neutral**

**I give my 3 minutes to:** \_\_\_\_\_

## **BOARD RULES**

### **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

### **Requests to Address Board on items that are "NOT" on the Agenda:**

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

### **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

### **Individual Speaker Limits:**

**Individual speakers are limited to a maximum of three (3) minutes.** Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. ***Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.***

### **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

### **Addressing the Board & Acknowledgement by Chairman:**

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Request to Speak**

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**SPEAKER'S NAME:** RON DOWNEY

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** NUERO **Zip:** 92567

**Phone #:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Agenda #** 3.65

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

\_\_\_\_\_ **Support**    X **Oppose**    \_\_\_\_\_ **Neutral**

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**SPEAKER'S NAME:** JESSE BURNS

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** RIVERSIDE **Zip:** \_\_\_\_\_

**Phone #:** 951-490-3535

**Date:** 12-14 **Agenda #** 3.65

**PLEASE STATE YOUR POSITION BELOW:**

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\_\_\_\_\_ **Support**    ☒ **Oppose**    \_\_\_\_\_ **Neutral**

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