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Moraga Bans Outdoor Pot Plants

By *Sophie Braccini*

The Moraga Town Council recently acted to ban medical marijuana dispensaries in town. While the issue was on the table, Police Chief Robert Priebe suggested adding a related ban. "Marijuana plants when grown outdoors, especially as they mature prior to harvest, often produce a strong, distinctive odor that can be detectable and offensive beyond the border of the property on which it is grown," said the Chief.

A resolution that not only bans dispensaries but also prohibits the outdoor cultivation of marijuana was approved by the Council on March 23.

Since the State passed the Compassionate Use Act of 1996 (which became the Medical Marijuana Program in 2004), individuals that have a Medical Marijuana Identification Card could not be asked by police to pull their home-grown supply. However, the legislation permits local jurisdictions to regulate against additional criminal activities. On that basis, many cities have passed ordinances prohibiting not only marijuana distribution facilities, but also the cultivation of the plant.

"We will not be patrolling looking for violations," said Priebe. "If we come across a violation during the normal course of business, or if we receive a complaint, we will act."

During its pre-examination of the ordinance the Planning Commission raised concerns about the indoor cultivation of marijuana, suggesting that could have adverse impacts on neighboring properties in the same way as outdoor cultivation - especially related to vented release of odors and possible criminal activity. Priebe did not support that position. "My comments on the marijuana ordinance dealt with my reluctance to get into a situation where the Town has to inspect and monitor residential ventilation systems," said the Chief, "That is actually a code enforcement issue, not a police issue."

In addition, the Planning Commission expressed concern about the exclusion of criminal penalties as an enforcement option. That option was examined by the Council as well, but the Town Attorney did not recommend that path because other cities that passed such terms have been challenged in court for consistency with the two State laws on medical marijuana. However, Moraga's ordinance does include a provision that allows the Town to recover the cost of enforcing the ordinance, including but not limited to staff time and expenses.

The Council voted unanimously in favor of the ordinance, although Council Member Howard Harpham noted, "It grieves me that we can't protect our children," he said, "with great misgiving I'm going to reluctantly say yes, and I am outraged at the complicity of the medical profession in this issue."

Moraga Police on the Cheap

Moraga Police Chief Robert Priebe recently announced that the Moraga Police Department is #1 in Contra Costa County as far as cost per capita is concerned. In Moraga, residents pay \$122.61 per person for their police services; the cost is \$164 in Clayton, \$223 in Orinda and \$416 in Kensington, among others. "What people do not get as a result of our budget are specialty items like a K-9 officer, a dedicated traffic officer, or a school resource officer," said the Chief, "Also, because our staffing is minimal, we can't always provide a dedicated detective position. We make our equipment last longer than most agencies and are always aware of costs and looking for efficiencies. We are still providing the services we always have, but cutbacks have required that our management staff, me and the lieutenant, have to do work previously handled by civilians in addition to our regular duties." Priebe believes that the main reason why his department's cost per capita is the lowest in the county is the very low retirement and benefits cost as compared to the other agencies. "That, along with our willingness to share responsibilities and an unorthodox approach to police management allows us to maintain full services at a lower cost," he concluded.

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