



Memorandum

TO: Mayor and City Council

FROM: Councilmember Pierluigi Oliverio &
Councilmember Donald Rocha

SUBJECT: Item 3.3

DATE: April 8, 2011

Approved *Pierluigi Oliverio* Date *4-8-11*
Don Rocha

In order to ensure public safety and reduce the proliferation of medicinal marijuana collectives in the City of San Jose it is imperative that the Council take action. It is our suggestion that the cap and lottery decision be addressed when staff and the Council have a clear understanding of the amount of eligible and conforming collectives once the regulations and requirements are implemented as proposed. Our concern is that a lottery system may award collectives to applicants that may not be the most well run facility, whereas the proposed regulations and application process may provide for a clearer picture of those collectives that are committed to a safe establishment. Therefore, we recommended that the Mayor and Council adopt the following direction:

- A) Approval of the staff direction for items A through E (Item E as recommended in the supplemental memorandum) with additional modifications as follows:
 - 1) Establish the distance for the location of a collective at 600 feet as stated in AB2650, with the additional restriction of 600 feet from other sensitive uses as defined in the staff report. Further, staff is directed to continue to aggressively close any collective that is within 500 feet of residential, per Council direction June 2010
 - 2) Deferral of action on the lottery and the maximum collective limit of 10
 - 3) Defer action on any requirement for on-site cultivation
 - 4) Any applicant, collective principal, or owner with a felony conviction shall be ineligible to run a collective. Any collective member growing medical marijuana offsite for the collective must also pass a background check.
 - 5) For collectives with on-site cultivation 24 hour security shall be required
 - 6) Prohibit on-site consumption of any medicinal marijuana products

- B) It is further directed that a 30 day submittal period ending on July 1, 2011 be established to accept applications for the operation and establishment of a Medicinal Marijuana Collective. After the aforementioned date, no additional applications will be accepted and a moratorium on Medicinal Marijuana Collectives will be established pending future Council action. Staff will also return to Council within 120 days with a report on the following:
 - 1) Number of collectives that have submitted applications and have met all requirements
 - 2) Policy language to address potential over-concentration
 - 3) A map showing locations of eligible applications in order to identify the aforementioned potential areas of over-concentration
 - 4) Policy language that limits the amount of collectives allowed, and a lottery process or ranking policy for further Council consideration
 - 5) Integration of any new legal opinions or regulations from the Santa Clara County District Attorney and/or the California Attorney General into our local policies or regulations
 - 6) Any collectives that have not filed an application as of July 1, 2011 should be closed