



**AGENDA
CITY OF GUSTINE
PLANNING COMMISSION
COUNCIL CHAMBERS, CITY HALL
352 5th STREET GUSTINE, CALIFORNIA
JANUARY 13, 2016 – 7:00 P.M.**

CALL TO ORDER - PLEDGE OF ALLEGIANCE

ROLL CALL

Commission Members: Martens, Oliveira, Hasness, Vice-Chairperson Marsigli,
Chairperson Gandy & Ex-Officio Anderson

PRESENTATIONS

ORAL COMMUNICATIONS

At this time, any person may comment on an item, which is not on the agenda. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD. Members of the public, who have questions regarding a specific agenda item, may comment on that item before consideration of that item by the Planning Commission, when recognized to do so by the Chairman.

CONSENT CALENDAR

- 1. Minutes, Planning Commission Meeting of October 14, 2015**
 - 1. Recommendation: Review and approve.*
- 2. Minutes, Planning Commission Special Meeting of December 2, 2015**
 - 1. Recommendation: Review and approve.*

ADMINISTRATIVE AGENDA

- 3. Commission Reorganization: Election of Planning Commission Chairperson and Vice-Chairperson**
 - 1. Receive staff report.*
 - 2. Receive public comment*
 - 3. Nominate and elect a Chairperson and a Vice-Chairperson*
 - 4. PUBLIC HEARING – Consider Resolution Making Recommendations to Council Regarding Medical Marijuana Commercial Cultivation and Transportation**
 - 1. Receive Staff Report*
 - 2. Open the public hearing*
 - 3. Receive public comment*
 - 4. Close the public hearing*
 - 5. Consider a motion to approve the resolution*
-

CITY PLANNER REPORT

PLANNING COMMISSION REPORTS

ADJOURNMENT

Note:

1. *In compliance with the Americans with Disabilities Act, a disabled person requesting a disability-related modification or accommodation to participate in this meeting, must contact City Hall at (209) 854-6471 or (209) 854-2127(fax). Requests must be made as early as possible, preferably one-full business day before the start of the meeting.*
2. *Any document provided to a majority of the Planning Commission regarding any open session item on this agenda is available for public inspection during normal business hours at the front counter of City Hall located at 352 5TH Street, Gustine, CA. Documents or writings received after the general distribution of the agenda are also available for inspection.*

CERTIFICATION

I, Melanie Correa, Deputy City Clerk, do hereby declare under penalty of perjury that the foregoing agenda was posted on the outdoor bulletin board at the Gustine City Hall, 352 5th Street, Gustine CA and made available for public review on this 7th day of January, 2016, at or before 5:00 p.m.



Melanie Correa

**MINUTES OF
PLANNING COMMISSION MEETING
OCTOBER 14, 2015**

CALL TO ORDER - PLEDGE OF ALLEGIANCE

Chair Mike Gandy called the meeting to order at 7:00 P.M. and conducted the pledge of allegiance.

ROLL CALL

Commission Members: Martens, Hasness, Vice-Chairperson Marsigli, Chairperson Gandy, Ex-Officio Anderson

Commissioner Oliveira was absent.

Staff Present: City Manager Sean Scully

PRESENTATIONS

ORAL COMMUNICATIONS

There was no oral communications.

CONSENT CALENDAR

1. Minutes, Planning Commission Meeting of September 9, 2015

1. Recommendation: Review and approve.

Chairman Gandy introduced the consent calendar. Vice Chair Marsigli moved to approve the consent calendar. The motion was seconded by Commissioner Martens and carried 4-0 with Commissioner Oliveira absent.

ADMINISTRATIVE AGENDA

2. PUBLIC HEARING – Flag Regulations Code Amendment

- 1. Receive Staff Report*
- 2. Open the public hearing*
- 3. Receive public comment*
- 4. Close the public hearing*
- 5. Consider a motion to approve the resolution*

City Manager Scully presented the staff report. Chairman Gandy opened the public hearing at 7:08 P.M. There was no public comment. The public hearing was closed at 7:09 P.M. After some discussion, Commissioner Martens made a motion to approve the resolution with one change for flag size not to exceed 25 sq. feet. The motion was seconded by Commissioner Hasness, and carried 4-0 with Commissioner Oliveira absent.

3. WORKSHOP - Discuss and Provide Direction on Freestanding Signs

- 1. Receive staff report*

2. *Receive public comment*
3. *Provide staff with direction on how to proceed*

City Manager Scully presented the staff report. There was a discussion in which the Chairman, Vice Chair and each of the Commissioners provided input. City Manager Scully advised that he had enough information, and would contact surrounding Cities to inquire their regulations, and that he would bring this item back at a future Planning Commission meeting for Public Hearing.

CITY PLANNER REPORT

City Manager Sean Scully advised on the status of several ongoing projects in Gustine. He also advised of the Centennial Dinner on November 16th.

PLANNING COMMISSION REPORTS

Commissioner Martens commended City Manager Scully on his hard work.

Commissioner Hasness advised that he had nothing to report.

Vice-Chair Marsigli expressed her disappointment on the Governor's passing of the mascot bill.

Chairperson Gandy advised that he had nothing to report.

ADJOURNMENT

Vice Chair Marsigli made a motion to adjourn the meeting at 7:26 P.M. The motion was seconded by Chairman Gandy, and carried 4-0 with Commissioner Oliveira absent.

ATTEST:

DEPUTY CITY CLERK

**MINUTES OF
SPECIAL PLANNING COMMISSION MEETING
DECEMBER 2, 2015**

CALL TO ORDER - PLEDGE OF ALLEGIANCE

Chair Mike Gandy called the meeting to order at 7:00 P.M. and conducted the pledge of allegiance.

ROLL CALL

Commission Members: Oliveira, Hasness, Vice-Chairperson Marsigli, Chairperson Gandy, Ex-Officio Anderson

Commissioner Martens was absent.

Staff Present: City Manager Sean Scully, Public Works Director Kathryn Reyes

PRESENTATIONS

ORAL COMMUNICATIONS

There was no oral communications.

CONSENT CALENDAR

ADMINISTRATIVE AGENDA

1. PUBLIC HEARING – Use Permit for a Wine Bar/Retail Store, 351 5th Street

1. *Receive Staff Report*
2. *Open the public hearing*
3. *Receive public comment*
4. *Close the public hearing*
5. *Consider a motion to approve the resolution*

Public Works Director Reyes presented the staff report. Vice Chair Marsigli excused herself from the Chamber at 7:09 P.M. due to conflict of interest. Chairman Gandy opened the public hearing at 7:11 P.M., there was no public comment. The public hearing was closed at 7:12 P.M. Commissioner Hasness made a motion to approve the resolution. The motion was seconded by Commissioner Oliveira, and carried 3-0-1 with Vice Chair Marsigli abstaining and Commissioner Martens absent. Vice Chair Marsigli returned to the Chamber at 7:13 P.M.

2. PUBLIC HEARING – Use Permit for a Religious Facility, 680 South Avenue

1. *Receive Staff Report*
2. *Open the public hearing*
3. *Receive public comment*
4. *Close the public hearing*
5. *Consider a motion to approve the resolution*

City Manager Scully presented the staff report. Chairman Gandy opened the public hearing at 7:14 P.M. Mr. Valenzuela introduced himself, but made no comment. The public hearing was closed at 7:15 P.M. Vice Chair Marsigli made a motion to approve the resolution. The motion was seconded by Commissioner Oliveira, and carried 3-1 with Commissioner Hasness in opposition and Commissioner Martens absent.

CITY PLANNER REPORT

City Manager Sean Scully provided an update on current planning projects. City Manager Scully also advised that he would be scheduling interviews with each of the Commissioners for their thoughts on a potential Combined Commission.

PLANNING COMMISSION REPORTS

Commissioner Oliveira advised that he had nothing to report.

Commissioner Hasness advised that he had nothing to report.

Vice-Chair Marsigli advised that she was selling Ag Booster Dinner fundraiser tickets.

Chairperson Gandy commented on how well the Old Fashioned Christmas at home was attended last weekend.

ADJOURNMENT

The meeting was adjourned at 7:28 P.M.

ATTEST:

DEPUTY CITY CLERK



PLANNING COMMISSION AGENDA ITEM

JANUARY 13, 2016

PREPARED BY: Sean Scully, City Manager

**SUBJECT: Commission Reorganization: Election of Planning Commission
Chairperson and Vice-Chairperson**

RECOMENDATION:

Nominate and elect candidates for Planning Commission Chairperson and Vice-Chairperson.

BACKGROUND/DISCUSSION

Pursuant to Municipal Code Section §4-2-33 "Officers and Meetings", the Planning Commission shall elect a chairperson and a vice-chairperson from among the appointed members. Elected officers shall hold the office for one year or until their successors are appointed.

FISCAL IMPACT:

None



PLANNING COMMISSION AGENDA ITEM

JANUARY 13, 2016

PREPARED BY: Sean Scully, City Manager
Doug Dunford, Police Chief

SUBJECT: Public Hearing: Medical Marijuana Regulations - ORDINANCE

BACKGROUND/ DISCUSSION:

In 1996, California voters approved Proposition 215, codified as Health and Safety Code Section 11362.5, et seq., and entitled the Compassionate Use Act of 1996 ("the Act"). Proposition 215 was intended to allow persons who are in need of marijuana for specific medical reasons to purchase and use the substance under limited, specific circumstances as set forth by State Law. Subsequently in 2004 the State Legislature passed SB 420 (codified as Health and Safety Code Section 11362.7 et seq.), which authorized city and county governments to adopt and enforce rules and regulations consistent with SB 420 and "the Act".

More recently the State Legislature has passed the Medical Marijuana Regulation and Safety Act (MMRSA). The intent of the MMRSA was to establish licensing requirements at both a State and Local level. The MMRSA added cultivation as well as transportation as uses that can be regulated at a local level. Transportation with regard to Medical Marijuana would be described generally as transportation of medical marijuana by delivery services to patients within Gustine city limits. Cultivation would generally be defined into two separate categories. The first category would relate to commercial cultivation which would typically be larger grow operations for commercial sale. The second category would be personal cultivation which relates specifically to the allowances that individual patients have to grow a limited number of marijuana plants on their personal property.

In 2012 the City of Gustine passed an ordinance prohibiting the establishment of medical marijuana dispensaries within City limits. Additionally (in 2012) the City Council passed an ordinance which establishes rules for personal cultivation. The Ordinance prohibits the consumption of Medical Marijuana in all places except within private residences and notes that no odor or smoke from such activity shall be detected from any neighboring property or residence. The Ordinance also restricts personal cultivation of Medical Marijuana to enclosed structures and the area dedicated to cultivation can be no greater than 120 square feet in size. The structures are required to meet all applicable zoning and building code requirements and cultivation may not be in conjunction with any type of business.

The two components that remain general unregulated relate to commercial cultivation and transportation of medical marijuana. The City Council workshopped this item at their January 5th 2016 meeting. Based on that workshop an ordinance has been crafted for Planning Commission consideration that addresses the key issues of commercial cultivation and transportation (deliveries). The ordinance would prohibit any commercial cultivation within City limits but would allow for deliveries within City limits. The definitions of both uses are as follows:

Commercial cultivation shall have the same meaning as set forth in Business and Professions Code Section 19300.5(l) but is distinguished from personal cultivation which is separately defined in Title 7 Chapter 7 Article 6 of the Gustine Municipal Code.

- Business and Professions Code Section 19300.5(l) - "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

Delivery or Deliveries shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.

- Business and Professions Code Section 19300.5(l) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

Planning Commission may discuss, amend or vote to recommend (or alternatively not recommend) the attached resolution and code amendment to Council.

RECOMENDATION:

Planning Commission to consider the attached resolution making recommendations to Council regarding commercial cultivation and transportation (delivery) of medical marijuana.

RESOLUTION NO. 2016-XXX

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GUSTINE
RECOMMENDING APPROVAL TO THE CITY COUNCIL OF A GUSTINE ZONING
ORDINANCE TEXT AMENDMENT OF PORTIONS OF TITLE 5 CHAPTER 8 OF THE
GUSTINE MUNICIPAL CODE - SPECIFICALLY RELATING TO THE COMMERCIAL
CULTIVATION AND DELIVERIES (TRANSPORTATION) OF MEDICAL MARIJUANA - AS
REFLECTED IN ATTACHMENT 1.**

WHEREAS, on January 5, 2016 the Gustine City Council held a workshop on current and pending Medical Marijuana legislation and provided general direction on commercial cultivation and deliveries of medical marijuana; and

WHEREAS, this resolution shall act as the Planning Commissions written recommendation of approval regarding this text amendment to the City Council; and

WHEREAS, before making any findings or any consideration of the proposal on its merits, this Commission called for objections or comments on said document; and

WHEREAS, The City Clerk caused the legal advertisement to be published as is required by law at least ten (10) days prior to the Planning Commission hearing date; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GUSTINE, AS FOLLOWS:

A. FINDINGS:

1. This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and
2. Pursuant to the California Environmental Quality Act (CEQA) §1537(b)(5) [Not Defined as a Project] the proposed ordinance is exempt from the provisions of CEQA.
3. The proposed amendment is consistent with the General Plan; and
4. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
5. The City Clerk caused the legal advertisement to be published as is required by law ten (10) days prior to the Planning Commission hearing date.

DECISION:

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Gustine held on the 13th day of January 2016, was approved, and the Resolution is hereby adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Deputy City Clerk

Planning Commission Chairman

(Additions to code are signified in **bold and underlined** font)

- **Chapter 8 - MEDICAL MARIJUANA DISPENSARIES, COMMERCIAL CULTIVATION REGULATIONS, AND DELIVERIES**

- **Sec. 5-8-1. - Terms.**

Marijuana means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It includes marijuana infused in foodstuff. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant are incapable of germination.

Commercial cultivation shall have the same meaning as set forth in Business and Professions Code Section 19300.5(l) but is distinguished from *personal cultivation* which is separately defined in Title 7 Chapter 7 Article 6 of the Gustine Municipal Code.

Delivery or Deliveries shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.

Medical marijuana dispensary means any association, cooperative, club, coop, delivery service, collective, and any other similar use involved in the sale, possession, cultivation, use, and/or distribution of marijuana for medicinal purposes.

(Ord. No. 462, § 1(Exh. A), 10-2-2012)

- **Sec. 5-8-2. - Imposition of prohibition.**

The city council hereby prohibits all medical marijuana dispensaries **and all commercial cultivation of marijuana** within all zones and planned developments within the city.

- **Sec. 5-8-3. - Deliveries**

Deliveries are allowed within the city limits of Gustine provided that a business license is obtained pursuant to Title 5 Chapter 2 of the Gustine Municipal Code.

(Ord. No. 462, § 1(Exh. A), 10-2-2012)