

**CALHOUN COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING – MORATORIUM ORDINANCE
DECEMBER 21, 2016**

PRESENT AND ACTING:

**DANNY RAY WISE, CHAIRMAN
GENE BAILEY, VICE-CHAIRMAN
DARRELL MCDUGALD
DENNIS JONES
JERAL HALL**

**MATT FUQUA, ATTORNEY
CARLA A. HAND, CLERK OF COURT AND COUNTY COMPTROLLER
SARAH WILLIAMS, CLERK ADMINISTRATIVE ASSISTANT**

Attorney Fuqua read the Ordinance by title:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CALHOUN COUNTY, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON GROWING, CULTIVATION, PROCESSING, MANUFACTURING, DISPENSING, DISTRIBUTION, AND WHOLESALE AND RETAIL SALE OF MEDICAL CANNABIS, LOW-THC CANNABIS, AND DERIVATIVE PRODUCTS, OR ANY RELATED ACTIVITIES; ESTABLISHING A TEMPORARY MORATORIUM ON THE OPENING, RELOCATION, OR EXPANSION OF ANY MEDICAL MARIJUANA DISPENSING FACILITY WITHIN UNINCORPORATED CALHOUN COUNTY; DIRECTING COUNTY STAFF TO DEVELOP PROPOSED LAND DEVELOPMENT REGULATIONS AND OTHER RECOMMENDATIONS REGARDING SUCH CANNABIS-RELATED ACTIVITIES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Chairman Wise called for public comment on the proposed Ordinance.

Attorney Keith Bell, who is the managing partner of the Tallahassee branch of the Clark Partington Law Firm, stated the firm represents one of the seven (7) companies licensed by the State of Florida to cultivate, manufacture and dispense marijuana products. Attorney Bell stated he has been working with about 20 different counties with the goal to eventually have ordinances passed which will regulate the medical marijuana industry in a responsible manner. Attorney Bell stated many counties have already passed moratorium ordinances similar to the one proposed by Calhoun County. Attorney Bell stated he is not addressing the Board to try to convince them not to pass a moratorium ordinance. Under the circumstances, especially in a small county with few potential patients, it makes sense to pass a moratorium while information is gathered to decide how these businesses will be regulated in the County. Attorney Bell stated he has noticed some confusion with many different counties with respect to the medical marijuana law, as well as what is expected to happen with the passing of Amendment 2. Attorney Bell stated he has a lot of information he can provide to the Board, and would be happy to answer any questions they may have. Attorney Bell stated he hopes over the next months he could

serve as a resource to the Board and Attorney Fuqua in drafting an ordinance that makes sense for Calhoun County once the moratorium ordinance expires. Attorney Bell stated one of the interesting issues he has come across, which many people have been unaware of, is medical marijuana products have been distributed under the Compassionate Use Act of 2014 as well as another act called the Right to Try Act which was passed earlier this year. There is a dispensary in Tallahassee which has been serving patients this year, and there is also a dispensary in South Florida, which have been operating before Amendment 2 passed in November. Attorney Bell stated because of the way the Amendment 2 reads, potentially opening what some view will be a larger group of patients now eligible for the product, everyone is paying more attention to the issue and taking action when these companies were already in the process of cultivating, manufacturing, and in some instances distributing the product before the election. Attorney Fuqua asked if there are any differences with the way these companies were operating before Amendment 2 and now that the amendment has passed. Attorney Bell stated there really is no difference, except the amendment will create a larger patient base by expanding the illnesses the high THC product will be available for instead of only the terminally ill as with the Right to Try Act. Attorney Bell stated in Calhoun County under the Right to Try Act and the previous Compassionate Use Act in 2014 the number of patients eligible for medical marijuana was very small, and would not be a marketplace for a business to try to operate. Attorney Bell stated it is expected there will eventually be a marketplace for these businesses, but based on his research he does not necessarily believe this will happen any time soon in a smaller area like Calhoun County.

Commissioner Bailey asked if the Board could adopt a control ordinance before adopting a moratorium ordinance. Attorney Bell stated there is no reason the Board could not adopt a control ordinance like the one he delivered to Attorney Fuqua. The ordinance regulates the industry in a way which would make it difficult for anyone other than a company which knows there is a marketplace, and knows they can serve the marketplace, to open a shop in the county. Attorney Bell stated if the Board passes an ordinance regulating the business now, as opposed to passing a moratorium ordinance, what happens at the State level will not ultimately affect the ordinance. Passing an ordinance regulating medical marijuana would put the County in a position of having dealt with the issue in a way the State may not be able to undo if they take action. Commissioner Bailey stated the concern he has heard from many people is the fact the Department of Health will be in charge of the medical marijuana industry. Commissioner Bailey asked if the State does not act, would the County be able to make better decisions than the State would make regarding medical marijuana. Attorney Bell stated he does think that is possible, and would like to see the Board consider the draft ordinance language he has provided and consider passing it prior to the expiration of the moratorium ordinance. Attorney Fuqua stated the moratorium ordinance could be repealed when the Board decides on a way to regulate medical marijuana in the County. Commissioner Bailey asked what happens if the State acts before Calhoun County has an ordinance in place. Attorney Bell responded if the County passes an ordinance before the State acts they will have home rule, but if the State acts before an ordinance is passed the County may have to comply with State standards. Commissioner Bailey asked if the Board could enact an ordinance which would ban medical marijuana in Calhoun County altogether. Attorney Bell stated the number of dispensaries and location of the dispensaries has been left to home rule and County discretion, but he suspects if the County permanently banned medical marijuana this could open up a litigation issue.

Commissioner McDougald asked if Attorney Bell is familiar with any of the dispensaries in Florida. Attorney Bell stated the only one he is really familiar with is the dispensary in Tallahassee. The dispensary is run by the True Leaf Company which is affiliated with the Hackney Nursery in Gadsden County. Commissioner McDougald asked if the medical marijuana products are dispensed by a pharmacist. Attorney Bell stated the products do not have to be dispensed by a pharmacist.

Commissioner McDougald asked if the dispensaries strictly sell marijuana products or if they sell other things as well. Attorney Bell stated the dispensaries only sell medical marijuana. Commissioner McDougald asked if any convenience stores would be able to obtain a license to sell medical marijuana. Attorney Bell stated they would not be authorized as a dispensary. There are only seven (7) companies in the State of Florida licensed to handle the entirety of the business from cultivation, manufacturing, transportation, and distribution. Attorney Bell stated the business is vertically integrated, and there has to be a direct chain of command which is already set up by the State. Commissioner Bailey stated in reading the ordinance provided by Attorney Bell he noticed there is a sentence which calls for one dispensary per 67,000 people. Commissioner Bailey stated theoretically that would be one dispensary for Calhoun County. Commissioner Bailey asked if the State or Department of Health develop different standards, could that change the amount of shops allowed in Calhoun County. Attorney Bell responded if the Board passes an ordinance now which reads only one dispensary will be permitted per 67,000 people the number should not change.

Attorney Fuqua stated in drafting the moratorium ordinance his goal was not to stop medical marijuana entirely, but to give the Board time to get ordinances like Attorney Bell has provided and make some intelligent decisions to determine how the business will be regulated in Calhoun County. The sooner the County could do that, the better, but when he received the moratorium ordinance he had not received any ordinances like the one Attorney Bell provided. Attorney Bell stated if the Board passes an ordinance prior to the expiration of the moratorium ordinance and prior to the State acting, the County could prevent the State from overriding the regulatory framework set by the Board.

Frank Snowden, County Planner, stated he read the ordinance provided by Attorney Bell, and the ordinance shuts the County down to only one dispensary and provides a scoring process in order to evaluate applicants to select which company would be allowed to open the dispensary. Mr. Snowden stated his greatest concern is if the dispensary starts to fail, they may try to sell illegally. Attorney Bell stated this concern is valid, and in the case of his client they are taking a conservative approach to the business and want to avoid situations where there is too much activity in a market which is regulated. If businesses are not regulated in the manner he has proposed in the ordinance provided, black market issues could arise. Mr. Snowden stated the investment to become one of these seven (7) companies licensed to cultivate and manufacture medical marijuana is so great, the company will do enough research to avoid opening a shop in an area which would not support sales. There was further discussion on the opening of dispensaries.

Attorney Fuqua stated Bay County has passed a moratorium ordinance, and thinks Jackson County passed an ordinance which was more similar to Attorney Bell's proposed ordinance than a moratorium. Attorney Bell stated the ordinance he provided has passed in several other counties with minor edits, and there are other counties considering passing the ordinance. Mr. Snowden stated he believes the ordinance deserves a lot of scrutiny before being passed. Attorney Fuqua stated if the moratorium ordinance is passed, a workshop can be scheduled to discuss the ordinance provided by Mr. Bell and some others in order to enact an ordinance as soon as possible.

Commissioner Bailey asked if the medical marijuana business would be a rich man's game in regard to lobbying legislators for the companies. Attorney Bell stated there are only seven (7) businesses licensed to produce medical marijuana, and there will surely be much discussion on the State level on the issue whether or not to extend more licenses. It is a given the companies are in this business to make money, but they have legitimate operations.

Attorney Fuqua asked where other than Gadsden County marijuana was being grown. Attorney Bell stated his client's business is located in the Gainesville area. Attorney Bell stated he was not sure where the other businesses are located.

Commissioner Bailey asked what exactly the dispensaries sell. Attorney Bell stated an oil is extracted from the marijuana plant which is taken in capsule form or vapor form.

Commissioner Jones stated he does not believe the Board should move too fast on enacting an ordinance, and gather more information. There is a conference in February which he hopes will provide more information. Commissioner Bailey stated the Board has time before an ordinance has to be enacted, and an ordinance can be weakened or strengthened if the Board chooses after it is passed.

Mr. Snowden stated based on his research, Calhoun County would never support more than one dispensary.

Sheriff Kimbrel stated as the process moves along the County could watch other counties and the legislature and draft an ordinance based on these findings. Sheriff Kimbrel stated he would recommend an ordinance contain fees similar to the ones liquor stores must pay to open a business, and have expensive licensing fees which could deter even one dispensary from locating in Calhoun County. Attorney Fuqua asked if the medical marijuana would be taxed by the government. Sheriff Kimbrel stated this is a cash business, and is not sure how taxes would be collected. Attorney Bell stated this is one of the issues which will be addressed at the State level. Commissioner McDougald stated if the product is considered medicinal it may not be taxed at all. Mr. Snowden stated in his research he found it ironic the Federal Government does not recognize the legalization of medical marijuana, but will tax businesses which cultivate the product. Attorney Bell stated there are some banks which are State chartered which do accept funds from these businesses, but State chartered banks are not located in all Counties. Chairman Wise stated he has done research, and in states where marijuana is legalized the dispensary gets an allotment of the product and the revenue has to match the amount of product obtained. The only way taxes can be obtained is from the amount of the shipment. There was further discussion about taxes.

Attorney Fuqua stated the economic side of the medical marijuana business sounds amazing. Attorney Fuqua stated considering the millions of dollars the FDA spends on testing different drugs, and now these businesses are going to grow and refine something which has been around for thousands of years and skip the whole FDA process, there will be much more profit.

Gene Rollins asked when (for what medical conditions) marijuana would be prescribed. Attorney Bell stated the amendment generally deals with AIDS, cancer, and other chronic illnesses. Attorney Bell stated he is not sure who is ultimately qualified to receive the medical marijuana. Attorney Fuqua stated he asked a physician about the licensing process to prescribe medical marijuana and he told him the training was very expensive and intense, and probably would not be worth it for anyone around here.

Ms. Robin Parrish-Hill asked how many doctors in the State are licensed to prescribe medical marijuana. Attorney Bell stated the list is updated every Monday on the Department of Health website. Attorney Bell stated he is not sure, but there may be a couple hundred throughout the State licensed to prescribe and maybe 1,500 patients are registered in the State.

Ms. Carrie Baker stated she had some friends with terminal cancer who were given medical marijuana to increase their appetite. They had to provide medical records proving they had cancer before they were issued a prescription for the marijuana. The medical marijuana increased their appetite and they were able to gain back weight they had lost, which made a difference in their quality of life before they passed away. Ms. Baker stated there are people who are in extreme pain who would be willing to try anything to find relief. Ms. Baker stated she hopes the County will pass an ordinance which allows a dispensary here to make a difference in some people's lives.

Ms. Hill stated there is a parent at the school where she works who has a child living with severe special needs. She is a stay at home mom, her husband is the only provider to their family, and has to travel to many cities hours away for doctor appointments with her child. Having a dispensary here in Calhoun County would benefit her family, and her child's quality of life. She could possibly spend more time at home with her child, than on the road traveling to receive treatments for them. Ms. Hill stated the parent asked her to convey to the Board she would like them to have measures in place so when a dispensary does come to the County it does not backfire, and will benefit the people who desperately need the treatment like her child. Ms. Hill stated she worked with severe special needs children for eleven (11) years who live with debilitating effects from these diseases who would greatly benefit from medical marijuana. Ms. Hill stated the business needs to be regulated in such a way people are not taking advantage of the system, and those that need it will be able to receive treatment. Commissioner McDougald stated the Board is in agreement the voters have spoken in Florida and this is what is wanted, but the moratorium ordinance would allow the Board to be able to do research and put in place an ordinance which would control the business.


Ms. Carrie Baker stated perhaps the Board could look at how the dispensary in Tallahassee is set up since there are questions about that aspect of the business. Ms. Baker stated the dispensary could possibly answer questions about how the business is run. Ms. Baker stated she does not believe the people who want to smoke marijuana for recreational purposes will be trying to get a medical marijuana card. Ms. Baker stated she has been told the medical marijuana does not give a person the high the recreational use marijuana does, but increases appetite and reduces pain. Attorney Bell stated this is a valid point, marijuana is probably more easily obtained through the black market rather than going through the process required to receive the medicinal version. Attorney Bell stated his client has a joint venture with a company called the Green Solution, which has been doing business in Illinois and Colorado for several years, and they are very familiar with the processes and protocols necessary to deal with this business from a security and medical perspective with Illinois being a strictly medical use state. Attorney Bell stated the company would be happy to come speak to the Board regarding these issues. Attorney Bell stated the business is highly regulated, and the medical marijuana is expensive. The dispensaries are legitimate medical facilities, and the people employed are not pharmacists but do require training. Commissioner Bailey asked what the cost of one pill would be. Attorney Bell stated the cost is anywhere from \$8 to \$15 per day for some of the treatments. It is hoped those prices will eventually go down. Commissioner Bailey asked if marijuana is addictive. Attorney Bell stated he is not qualified to answer that question. Attorney Fuqua stated it is certainly not as addictive as some pain medications. Attorney Bell stated from a non-expert point of view, most of what he has read says medical marijuana is not as harmful as some of the substances in other pain medications. Mr. Rollins stated he could get prescriptions for pain medications, but he chooses not to have them filled. Mr. Rollins stated medical marijuana would greatly benefit him, because he lives with chronic pain. Attorney Bell stated based on what he has read marijuana is not physically addictive like nicotine and other pain medications, but may be somewhat addictive from a mental perspective.

Sheriff Kimbrel asked what the difference between Charlotte's Web and what is being produced now. Attorney Bell stated Charlotte's Web was the original strain of low THC developed in Colorado for the treatment of seizures. This is just a trade name for low THC, high CBD marijuana. Attorney Bell stated all the companies are growing this type of product but they do not call it Charlotte's Web. This product will be available for patients who have illnesses such as epilepsy. The high THC product will be available for patients with more chronic pain illnesses. Sheriff Kimbrel asked what form (pill, vapor, etc.) will medical marijuana be sold. Attorney Bell stated based on what he has seen this far it will be in pill form or vapor form. Sheriff Kimbrel asked if the only difference now would be the introduction of the high THC products. Attorney Bell stated this is correct. Charlotte's Web was a low THC product available through the Compassionate Use Act and now there will be high TCH products which have different applications.

Commissioner Bailey asked why medical marijuana could not be put in pharmacies and let doctors prescribe the medication. Attorney Bell stated the first issue is medical marijuana is illegal federally and would not be allowed.

After inquiry from Attorney Fuqua regarding marijuana sales in Washington State Chairman Wise stated to have a marijuana card in Washington, a person has to give up their second amendment rights to have a weapon in their home. Commissioner Bailey stated the Board could write that policy into their ordinance if they so choose.

There being no further public comment, the meeting adjourned at 5:55 p.m., CT.


DANNY RAY WISE, CHAIRMAN

ATTEST:


CARLA A. HAND, CLERK