Proposed Ordinance Prohibiting the Establishment and Operation of Medical Marijuana Facilities in the City of Atascadero

RECOMMENDATION:

Council introduce for first reading by title only, the Draft Ordinance prohibiting the establishment and operation of Medical Marijuana Facilities in the City of Atascadero.

DISCUSSION:

On October 27, 2009, the City Attorney presented a Staff Report to the City Council entitled “Report on the Establishment and Operation of Medical Marijuana Facilities and Draft Ordinance Prohibiting Medical Marijuana Facilities,” see Attachment A. The Staff Report to the City Council included 19 Attachments and was 260 pages long. If any Council Members wish to review any of the 19 Attachments, the Attachments may be found on the City’s website.

At the City Council meeting on October 27, 2009, the City Council approved the two Recommendations presented by the City Attorney which were: (1) Adopt an interim urgency ordinance extending the moratorium on medical marijuana facilities to September 8, 2010 and (2) Refer to the Planning Commission for consideration of a draft ordinance to repeal existing ordinances regarding medical marijuana and adopt an ordinance prohibiting the establishment and operation of medical marijuana facilities in the City.

On February 16, 2010, the Atascadero Planning Commission considered the draft ordinance to repeal existing ordinances regarding medical marijuana and adopt an ordinance prohibiting the establishment and operation of medical marijuana facilities in the City. After hearing the staff report from the City Attorney and comment from members of the public, the Planning Commission discussed the proposed draft ordinance, and at the conclusion of the discussion the Commission voted unanimously to approve Resolution PC 2010-0005 recommending that the City Council adopt the proposed draft ordinance.
The City Attorney has made some minor non-substantive revisions to the proposed draft ordinance that was submitted to the Council on October 27, 2009. A copy of the proposed draft ordinance in redline version reflecting those minor changes is shown in Attachment B to this staff report. A clean version of the proposed draft ordinance is Attachment C to this staff report.

As explained in the October 27, 2009 Staff Report to the City Council, and as presented to the Planning Commission on February 16, 2010, the City Attorney is recommending the adoption of the Draft Ordinance Prohibiting the Establishment and Operation of Medical Marijuana Facilities in the City of Atascadero for the following reasons:

1. Notwithstanding the adoption of the “Compassionate Use Act of 1996”, also known as Proposition 215, the sale, possession, cultivation and distribution of marijuana is prohibited by federal law; and,

2. Medical marijuana facilities have negative secondary effects, including significant increases in traffic, crime and noise.

Since the City Council meeting of October 27, 2009, the sale, possession, cultivation and distribution of marijuana is still prohibited by federal law and there is further evidence of the negative secondary effects of medical marijuana facilities as confirmed by the recent experience with a medical marijuana facility in Santa Barbara which is discussed in the article from the Los Angeles Times dated January 11, 2010, see Attachment D.

**FISCAL IMPACT:**

No fiscal impact.

**ALTERNATIVES:**

The City Council could decide not to introduce the Draft Ordinance Prohibiting the Establishment and Operation of Medical Marijuana Facilities in the City of Atascadero

**ATTACHMENTS:**

Attachment A - Staff Report to City Council on October 27, 2009
Attachment B - Draft Ordinance (Redline) Prohibiting the Establishment and Operation of Medical Marijuana Facilities in the City of Atascadero
Attachment C - Draft Ordinance (Clean) Prohibiting the Establishment and Operation of Medical Marijuana Facilities in the City of Atascadero
Attachment D - Los Angeles Times article dated January 11, 2010