

County Board Pulls Back on Ban Against Outdoor Marijuana

Hollister Free Lance
By Kollin Kosmick
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San Benito County supervisors Tuesday pulled back on a previously supported ordinance to ban outdoor medical marijuana cultivation in unincorporated areas. After hearing a presentation led by two representatives from separate coalitions of California counties regarding recently approved state legislation, along with public speakers against the local proposal, supervisors agreed to back off their previous support.

San Benito County was set to have one of the strictest anti-marijuana laws in the state after the board's 3-2 approval Sept. 22 supporting a ban against all outdoor pot grows in unincorporated areas. Supervisors in September initially failed to gain enough votes for an urgency ordinance needing a four-fifths approval. By making subtle changes to language that day, they indicated support in a 3-2 vote for a regular ordinance that had to come back Tuesday for an official first reading on an adoption. It would have gone into effect 30 days later, or in early November.

Supervisors Margie Barrios and Anthony Botelho brought the proposal to the board after serving on a subcommittee regarding the topic with law enforcement authorities. They gained support from Supervisor Jerry Muenzer last month to obtain a necessary majority to move ahead on an official ordinance that came before supervisors this week. Both Muenzer and Botelho, however, expressed reservations Tuesday about moving ahead on the ordinance as written. Barrios stood firm in her support of the original proposal.

Muenzer noted how many residents called him to complain after the initial approval. He said when making that initial decision on the matter, he had not fully understood the challenges for medical marijuana users in switching from outdoor to indoor growth, which would have been allowed with up to 12 plants.

"I have concerns about that," Muenzer said of the outdoor ban. "That aspect of the ordinance probably needs to be looked at."

During the board's discussion, Muenzer asked Barrios how many voices from the pro-medical marijuana side had been involved in subcommittee talks leading up to the proposal.

Barrios acknowledged there was nobody from pro-marijuana interests involved on the subcommittee. She said other participants outside of the two supervisors were from the district attorney's office, sheriff's office and county counsel's office.

In explaining her continued support for an outdoor grow ban, Barrios also said there was "no doubt" the state would legalize recreational use next year.

"It isn't legal *yet* for recreation," she said Tuesday.

If made official, an outdoor growing ban would have moved the county further from the state's direction on marijuana legalization, as California voters in 2016 could consider a measure to legalize the plant for recreational use on top of currently allowed medical purposes permitted for nearly two decades.

San Benito County already has an anti-cannabis reputation with separate zoning bans against all medical marijuana dispensaries in Hollister and unincorporated county areas. The county's previously proposed draft ordinance, at least partly in response to a now-defunct dispensary along Highway 25 that continued to grow pot even recently while spreading a pungent smell across the neighboring commuter road, would have banned outdoor cultivation altogether in unincorporated areas. The law would include a two-year amortization period for existing cultivation sites that can prove they have been growing. The county would have joined another one in recently taking a bold step against growers. San Joaquin County in May became the first in California to outlaw all marijuana cultivation—outdoor or indoor—in unincorporated areas, according to the *Stockton Record*.

In pushing for one of the strictest anti-marijuana laws in the state, Barrios, Botelho and sheriff's office Capt. Eric Taylor on Sept. 22 focused their arguments on currently illegal operations.

At Tuesday's meeting, the tide had turned, though. The pro-medical marijuana advocates dominated the discussion, and at least four supervisors appeared willing to consider their views. The sheriff's office was absent from the discussion altogether. Attorney Aaron Johnson, who represents regional interests in the medical marijuana industry, called the prior proposal "premature" considering all the legislation and conjecture at the state level. He asked for a seat at the table on future local discussions. That prospect garnered support from Muenzer, one of the prior supporters of an outdoor ban.

"A lot of information in front of you today warrants further discussion," Johnson said. Even the presenters from the statewide county coalitions quashed some of the prior arguments used to gain initial support last month on an outdoor grow ban.

Paul Smith from the Rural Counties Representatives of California organization made a presentation alongside Karen Keene from the California State Association of Counties in what they described as the first talk on a "road show" about the topic. When Botelho asked Smith what other counties were doing on marijuana regulations, the legislative advocate responded how local approaches were "all over the map."

Keene interjected as well.

"We represent all 58 counties," she said. "They all seem to be doing something different."

One of Botelho's primary points in arguing for the outdoor ban had been that many other counties were considering similar regulations.

That came after the board listened to an extensive presentation from the two outside representatives on three bills waiting for the governor's signature. That package of bills implements an extensive set of regulations and taxing mechanisms for the medical marijuana industry while essentially doing away with the collective model.

Barrios in her prior arguments in support of an outdoor ban had pointed out how cancer patients could still form collectives in order to grow their pot.

While Barrios' position remained the same, so did those of Supervisors Robert Rivas and Jaime De La Cruz.

Rivas said an outdoor grow ban would promote the "continuance of a tax-free, illegal drug trade in San Benito County." The local government's approach moving forward should focus on regulation, not what he called a "ban."

He said the board had "rushed a little" on the subject when supervisors normally take their time on issues of such importance.

"It's unfortunate that the sheriff's department isn't here," Rivas said. "It seems like they're the ones that are really moving this issue."

http://www.sanbenitocountytoday.com/news/agriculture/county-board-pulls-back-on-ban-against-outdoor-marijuana/article_a11ca4ce-6c62-11e5-b56a-438456043ca5.html