

MINUTES OF THE REGULAR MEETING OF THE
YREKA PLANNING COMMISSION HELD IN
THE YREKA CITY COUNCIL CHAMBER IN SAID CITY
ON THE 16th DAY OF DECEMBER 2009

On the 16th day of December 2009 at 6:30 p.m., the Planning Commission of the City of Yreka met in the City Council Chamber in said city in regular session. The meeting was called to order by Chair Knitter and present were:

Commissioners: Deborah Baird
Diane Knitter
Steve Leal
Mark McAllister
Barry Ohlund
Matt Osborn
Richard Rolzinski

Absent: None

Upon a request from Karen Whitehouse, to move agenda item number three to the first position, Commissioner McAllister made a motion to take Agenda Item #3 out of order allowing it to be heard in first position instead, Commissioner Ohlund seconded the motion, all voting aye the motion carried.

USE PERMIT – DOCTOR’S OFFICE
RAYMOND POWELL MD – 612 FOURTH ST. APPROVED

The Commission reviewed the application submitted by Raymond A. Powell MD for a use permit to establish and operate a doctor’s office with one physician and one employee on the property located at 612 Fourth Street, Assessor’s Parcel No. 054-301-070.

This being the time and date set for a public hearing for an application for a use permit to establish and operate a doctor’s office, Chair Knitter opened the public hearing to the audience.

Staff reported the Technical Committee recommended approval subject to the conditions presented.

Staff also recommended that the Planning Commission make the determination that the project is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines in that it is not a project which has the potential for causing a significant effect on the environment.

There being no comments from the public, the public hearing was closed and discussion

was opened to the Commission.

Following Commission discussion, Commissioner McAllister made a motion to approve the application for a use permit to establish and operate a doctor's office with one physician and one employee on the property located at 612 Fourth Street, Assessor's Parcel No. 054-301-070, C-2 zone, GC General Plan designation, with the determination that this project is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines in that it is not a project which has the potential for causing a significant effect on the environment. The approval is based on Staff's and the Technical Committee's recommendations and is subject to full compliance with all applicable city, state, and federal laws and regulations and the following findings and conditions of approval:

FINDINGS:

1. The establishment and operation of a medical office facility with one physician and one employee will not:
 - a. be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood, and will not be detrimental to the harmonious and orderly growth of the City of Yreka because it will be located adjacent to other professional office uses.
 - b. be detrimental to property or improvements in the neighborhood and the commercial use will not impair the desirability of investment or occupation in the vicinity because there are existing professional offices in the neighborhood.
 - c. cause unreasonable vehicular traffic, parking congestion, noise, nuisance, or odors because there is adequate onsite improved parking.
 - d. adversely affect matters regarding police protection, crime prevention, and security.
 - e. adversely affect circulation or traffic patterns in the neighborhood or constitute a nuisance for the reason stated in (c) above.
2. The use is compatible with the policies and objectives of the zoning ordinance.
3. The project is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061 (b)(3) of the CEQA Guidelines in that it is not a project which has the potential for causing a significant effect on the environment.

CONDITIONS:

1. Permittee granted a permit to establish and operate a doctor's office with one physician and one employee at the location set forth in the application, subject to full

compliance with applicable city and state codes. **The premises shall not be occupied or opened to the public until all conditions hereinafter set forth have been complied with by the Permittee.**

2. Adequate off-street parking facilities shall be provided as follows: one (1) space for each doctor, plus one (1) space for each employee, plus two (2) spaces for each examining room as set forth in Section 16.54.020.A.4.a of the Yreka Municipal Code, calculated as 4 parking spaces for the proposed use. The subject property has 6 improved parking spaces.

3. The off-street parking plan and facilities revised on February 10, 2002 and approved by the Planning Commission shall not be deviated from unless prior approval of the Planning Commission is secured, and all loading, customer, and employee parking areas, access drives and aisles shall be paved and striped and bumper rails or other barriers shall be provided, as determined by the Building Official and City Engineer and in accordance with Section 16.54.090 of the Yreka Municipal Code.

4. Parking required for disabled persons shall be marked, posted, and maintained in accord with provisions of the Motor Vehicles Code and any other law or regulation now or hereinafter enacted relating to parking for disabled persons.

5. Use shall be conducted in accordance with the site plan as submitted and no alterations shall be made of the building location(s) parking and landscaping without prior approval of the Planning Commission; provided, however, upon request of the Permittee and showing of good cause, the City Manager is authorized to permit minor modifications of the site plan without resubmission to the Planning Commission.

6. All landscaping shall be maintained and replaced as necessary as previously approved.

7. Permittee shall comply at all times with the zoning district regulations for a C2 zone as set forth in Section 16.34 of the Yreka Municipal Code.

8. Permittee shall obtain a building permit and shall pay the necessary fees therefor prior to making any building, electrical, mechanical, or plumbing installations and/or improvements. Public infrastructure improvements such as curb, gutter, sidewalk, street lights, wheel chair ramps, driveway approaches and asphalt concrete street pavement may be required upon issuance of a building permit in accordance with Yreka Municipal Code Section 11.24.030.

9. Permittee shall secure a Certificate of Occupancy and approval of the Building Official and Fire Marshal that structure meets building standards and fire regulations of the Uniform Building and Fire Codes prior to use of subject medical office facility.

10. No signs shall be placed on the premises without prior approval of the Planning Department.

11. Permittee shall secure an annual City business license to carry on the business of a doctor's office.

12. Use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.

13. The use permit shall be automatically revoked and terminated if not used within one year from the date of approval, or in the event the use permitted is abandoned or not utilized for a period of one year.

Commissioner Ohlund seconded the motion. The motion carried by the following vote:

AYES: Baird, Knitter, Leal, McAllister, Ohlund, Osborn, Rolzinski
NOES: None

**SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT -
SHASTA VALLEY ASPHALT AND AGGREGATE PLANT EXPANSION OF
OPERATIONS
J.F. SHEA COMPANY, INC. BY JAMES E. MURRAY - 451 GRANITE COURT**

This being the time and date set for a public hearing for comment on the Draft Supplemental Environmental Impact Report for proposed expansion of operations of the Shasta Valley Asphalt and Aggregate Plant by modification of Use Permit #2858 allowing nighttime plant operations, production of rubberized asphalt concrete, and removal of non-disturbance area on west side of site. Assessor's Parcel No. 053-681-110, M-2 (Heavy Industrial) zone, I (Industrial) General Plan designation Chair Knitter opened the public hearing to the audience.

Staff reported that the Technical Committee made no recommendation on the document. Staff explained that this hearing is to take comment on the Draft Supplemental Environmental Impact Report. No action will be taken by the Planning Commission at this meeting on the environmental document or the modification to the use permit.

Chair Knitter asked for comment by the project proponent. Proponents submitted on the record.

Chair Knitter asked for comment by parties in opposition to the project.

Louise Gliatto, 1003 Limestone Court, opposed to plant operation in the evening, because they need the windows open in the summer due to the heat and concern regarding odors and noise.

John Richter, 1018 Quarry Court, opposed due to traffic noise concerns, devaluation of

property in the area, and odor.

Joanne Smith, 1107 Foothill Drive, opposed due to odor concerns.

Ron Budesilich, 1020 N. Foothill Drive, opposed due to concerns for air quality, noise, truck traffic, and property values.

Arthur Clark, 10 Clark Way, concerns regarding soot, smoke, odors and concern that the use is not compatible with the adjacent food distribution plant.

Richard Barr, 1150 Montague Road, opposed due to truck traffic.

Proponent, Ed Kernaghan, responded that the State of California is now requiring work to be done at night and rubberized asphalt for certain projects. In order to be competitive for bids on local jobs and keep the local employees working, the plant modifications are needed. The plant must meet the mandates of State air quality standards.

There being no further comments from the public, discussion/comment was opened to the Commission.

Commissioner questions/comments:

What is the difference between the noise level of the mill and the proposed batch plant?
Response – did not know.

To audience – currently bothered by the truck traffic? Responses – yes.

What is the number of employees proposed for the project? Response – 10 to 20 jobs were lost with recent projects that could not be processed locally.

The study did address the noise and air quality issues and the project is located on property that is properly zoned for the heavy industrial use proposed.

Mr. Kernaghan stated that they do try to respond to complaints quickly, he also said that one year in the last three would have had 10 nights of operation in the whole period.

How long has the property been zoned M-2 Heavy Industrial? Staff reported that it was zoned that when it was annexed into the City, sometime in the 1960's.

It was suggested that trucks be rerouted from State Route 3 to Oberlin Road. Response - that would create more traffic within the City on Main Street or Fairlane Road to get to the on-ramp creating additional hazard and would still be affecting residential uses.

Staff read two letters received after the information packets were sent out and before the meeting started. One letter from Macy and Gordon Smith dated December 16, 2009 and one letter from Ron and Lisa Budesilich dated December 16, 2009.

Staff also reported that the property between Foothill Drive and State Route 3 was changed from M-2 Heavy Industrial to M-1 Light Industrial as a buffer to residential uses. The M-2 zoned property located along Foothill Dr. and Phillipe Lane is the only Heavy Industrial zoned property within the City limits.

The Commission referred to Staff to respond to the comments.

ZONING ORDINANCE TEXT AMENDMENT

Staff reported that this is a public hearing to take comment on a possible zoning ordinance text amendment. City Attorney McHugh explained that the ordinance would amend Title 16, Chapter 16.46 of the Yreka City Code to add section 16.46.150 Prohibited Uses – Prohibiting medical marijuana dispensaries, collectives, cooperative and the cultivation of marijuana. She explained that Ordinance 817 was introduced at a November Council meeting, they recommended a modification to the Ordinance and the Technical Committee also recommended a modification.

The modifications recommended are as follows in underline:

§16.46.150 PROHIBITED USES

16.46.151 MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION OF MEDICAL MARIJUANA

A. Definitions

- 1. Medical Marijuana is defined as marijuana which is possessed and or cultivated by a person who is a "primary caregiver," a "qualified patient," or a "patient with an identification card" as defined California Health and Safety Code Section 11362.7 et seq.
- 2. Marijuana is defined as the Schedule I Drug referred to and classified under the Controlled Substances Act, 21 USC 801.
- 3. MEDICAL MARIJUANA DISPENSARY OR DISPENSARY. Medical marijuana dispensary or dispensary means any facility or location, whether fixed or mobile, where medical marijuana is made available to or distributed by or distributed to one or more of the following: a "primary caregiver," a "qualified patient," or a "patient with an identification card." All three of these terms are identified in strict accordance with California Health and Safety Code Section 11362.5 et seq. A medical marijuana dispensary shall include any facility or use holding itself out as medical marijuana “collectives” and medical marijuana “cooperatives”. A medical marijuana dispensary shall not include the following uses, as long as the location of such uses is otherwise regulated by this code or applicable law:

B. A medical marijuana dispensary, as defined in Section 16.46.151.A.3, is prohibited in all zones, and, shall be considered a nuisance as defined in Section 16.08.030 of this Code.

C. Cultivation of cannabis/marijuana plants is prohibited in all zones, except that for those locations identified in Section 16.46.151.A.3.a through d., in which event, cultivation may only occur on the interior of the building at the location. Cultivation may not occur in any accessory building or structure. Cultivation of cannabis/marijuana plants other than as provided herein shall be considered a nuisance as defined in Section 16.08.030 of this Code.

Alternate C:

Cultivation of cannabis/marijuana plants is prohibited in all zones, except that for those locations identified in Section 16.46.151.A.3.a through d, in which event, cultivation may occur inside or outside at that location. Cultivation of cannabis/marijuana plants other than as provided herein shall be considered a nuisance as defined in Section 16.08.030 of this Code.

Comment was opened to the public. Chief Bowles spoke in favor of the proposed ban. Joe Allison also spoke in favor of the ban.

There being no further comment from the public, the public hearing was closed and discussion was opened to the Commission.

Following Commission discussion, Commissioner Ohlund made a motion to recommend that City Council adopt an ordinance to amend Title 16, Chapter 16.46 of the Yreka City Code to add section 16.46.150 Prohibited Uses – Prohibiting medical marijuana dispensaries, collectives, cooperative and the cultivation of marijuana with the changes recommended by City Council and the Technical Committee as follows:

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 16, CHAPTER 16.46 OF THE YREKA CITY CODE TO ADD SECTION 16.46.150 PROHIBITED USES –PROHIBITING MEDICAL MARIJUANA DISPENSARIES, COLLECTIVES, COOPERATIVE AND THE CULTIVATION OF MARIJUANA IN ANY ZONING DISTRICT AND ADDING DEFINITIONS FOR MEDICAL MARIJUANA DISPENSARIES, COLLECTIVES, COOPERATIVE AND THE CULTIVATION OF MARIJUANA

THE CITY COUNCIL OF THE CITY OF YREKA DOES HERBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Yreka hereby finds and declares the following:

The city council takes legislative notice, based on the materials presented to the council during the legislative process leading to the enactment of this ordinance, of the following:

Over the past year medical marijuana dispensaries have been established Over the past year medical marijuana dispensaries have been established in many locations in California, and as a consequence, many local agencies have reported increases in illegal drug activity, illegal drug sales, robbery of persons leaving dispensaries, loitering around dispensaries, and other increases in criminal activity, violent and non-violent. Examples in Siskiyou County in the past month include: an incident in Happy Camp where one person claimed another stole his marijuana garden, which resulted in the death of one of the parties by stabbing; in ~~Yreka~~ Siskiyou County since January 2007 there have been five (5) incidents involving complaints of theft of marijuana grown on private property, four of which were accompanied by violence, as reported by the Yreka Chief of Police to the Council, *November 2009 Marijuana Project Report*.

The number of parcels in the City used to grow marijuana has steadily increased. The presence of marijuana on private property or from areas accessible to the general public advertises its presence in a neighborhood and creates both an attractive nuisance and the risk of robbery, theft and violence. Several recent events have called attention to the impact on public safety caused by the growing of marijuana in residential neighborhoods of the City. As reported in the *November 2009 Marijuana Project Report*, during the past two years, the City Police Department reports numerous calls to the department to respond to incidents related to the growing of marijuana in residential neighborhoods. These incidents demonstrate that the cultivation of marijuana within the City limits poses a threat to public safety. The City is a relatively small city and has limited resources available to engage in extensive regulation of marijuana cultivation.

The federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.

In 1996, the voters of the state of California approved proposition 215 (the "act"). The act creates a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances. On January 1, 2004, SB 420 went into effect. SB 420, known as the "medical marijuana program" ("MMP") was enacted by the state legislature to clarify the scope of the act and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420. The act expressly anticipates the enactment of additional local legislation. It provides: "Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes." Health and Safety Code section 11362.5.

Recently, the U.S. Attorney General stated that federal law enforcement officials would ease enforcement at California medical marijuana facilities. For this reason, among others, there is burgeoning interest in establishing marijuana dispensaries in the State of California, and in the region of the County of Siskiyou. In response, numerous cities and counties around the state are enacting regulations. Among the cities located within Siskiyou County, and among other counties adjacent to Siskiyou County, many agencies are considering or have recently enacted ordinances either prohibiting, regulating, or establishing a moratorium on marijuana dispensaries. Regulations by other agencies can be expected to have the effect of redirecting persons desirous of establishing such dispensaries to the City of Yreka.

Proposition 215 and Senate Bill 420 do not preempt local zoning or nuisance regulations affecting marijuana-related land uses; rather, Senate Bill 420 (Health and Safety Code section 11362.83) expressly allows Cities and Counties to adopt and enforce ordinances that are

consistent with state law. The scope of local regulatory power continues to be challenged by proponents of marijuana-related land uses. Local regulatory power over marijuana dispensaries was recently upheld by the California Court of Appeal in the case known as *City of Claremont v. Kruse*, 177 Cal.App.4th 1153 (2009).

Under the current provisions of the Yreka Municipal Code, Marijuana Dispensaries are not identified as a permitted use in any zoning district in the City. The Yreka Municipal Code requires all commercial and industrial uses to have a business license, and holders of a business license may not violate state or federal law. While the City interprets these provisions to mean that such uses are prohibited, numerous other local governments, including the Cities of Corning, Anderson, Claremont, and Corona, have faced arguments that Marijuana Dispensaries are permitted uses under similar ordinances, or are encompassed within generic permitted uses, such as "miscellaneous retail" or "medical clinics."

Other local governments in the region, including the Cities of Corning, Anderson and Dunsmuir whose ordinances did not clearly address Marijuana Dispensaries, witnessed the rapid establishment of such facilities, whose operators then claimed exemption from later-enacted regulations.

The establishment, development, construction, maintenance, or operation of Marijuana Dispensaries, and the continued approval of use permits, variances, building permits, or any other applicable entitlements authorizing their establishment, would result in a threat to the public health, safety and welfare, because such uses threaten to cause the harmful "secondary effects" identified above within the City.

Facilities which dispense marijuana have the potential to cause serious harmful effects on the neighborhoods in which they are located, to owners of property in such neighborhoods, and to citizens living, visiting, shopping, conducting business or otherwise present in the area, as reported by several other California Counties and Cities. Such effects are due to such factors as the illegal nature of the activity under federal law, the presence of large quantities of marijuana at the dispensaries, the presence of large amounts of cash, the presence of weapons, and other factors. Harmful effects at the dispensaries and the surrounding areas have included an increase in burglaries, robberies, illegal sales of drugs, use or possession of marijuana by unauthorized persons, attacks on persons entering or leaving the premises, loitering, smoking marijuana in public places, and driving while under the influence of marijuana. These harmful "secondary effects" are further detailed in the *White Paper on Marijuana Dispensaries by California Police Chief's Association Task Force on Marijuana Dispensaries* dated April 22, 2009, and the report of the Yreka Chief of Police's *November 2009 Marijuana Project Report*, both of which have been reviewed by the Council with the assistance of staff, and which detail examples of the "secondary effects" of concentrating substantial amounts of marijuana in one place.

In May 2005, the City Council adopted ordinance 783 which was extended by ordinance 784 from time to time until it expired by its terms in April 2006, because the federal government and state of California were actively engaged in marijuana interdiction, which is no longer the case. Pursuant to Government Code Section 65858(f) the Council finds and declares that the

circumstances giving rise to this ordinance are different from the events, occurrences or sets of circumstances that led to adoption of ordinances 783 and 784, as are set forth above.

This ordinance is necessary to protect residents and businesses from harmful secondary effects of medical marijuana dispensaries which are proliferating by reason of the lack of federal and state regulation or enforcement.

Notice of Public Hearing for this ordinance was duly given as required by law.

The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

The Council finds the foregoing findings are true and correct.

REVISED PURSUANT TO ACTION AT COUNCIL MEETING 11-20-09.

SECTION 2. In order to protect the public health, safety and welfare of the residents of the City of Yreka, Title 16, Chapter 16.46 is amended to add the following:

§16.46.150 PROHIBITED USES

16.46.152 MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION OF MEDICAL MARIJUANA

D. Definitions

4. Medical Marijuana is defined as marijuana which is possessed and or cultivated by a person who is a "primary caregiver," a "qualified patient," or a "patient with an identification card" as defined California Health and Safety Code Section 11362.7 et seq.
5. Marijuana is defined as the Schedule I Drug referred to and classified under the Controlled Substances Act, 21 USC 801.
6. *MEDICAL MARIJUANA DISPENSARY OR DISPENSARY.* Medical marijuana dispensary or dispensary means any facility or location, whether fixed or mobile, where medical marijuana is made available to or distributed by or distributed to one or more of the following: a "primary caregiver," a "qualified patient," or a "patient with an identification card." All three of these terms are identified in strict accordance with California Health and Safety Code Section 11362.5 et seq. A medical marijuana dispensary shall include *any facility or use holding itself out as* medical marijuana "collectives" and medical marijuana "cooperatives". A medical marijuana dispensary shall not include the following uses, as long as the location of such uses is otherwise regulated by this code or applicable law:
 - a. a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a healthcare facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;
 - b. a facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;
 - c. a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; or a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as

such use complies strictly with applicable law, including, but not limited to, Health and Safety Code Section 11362.5 et seq.

- d. a private residence where the medical marijuana is used by qualified patients who reside at that location.

- 7. *MARIJUANA COLLECTIVES.* Marijuana Collectives means any group consisting of two or more patients, and/or their primary caregivers, who choose to associate together in the use or cultivation of medical cannabis/marijuana, or who facilitate the use of cannabis/marijuana for patients and/or their caregivers at any facility or location, fixed or mobile.
- 8. *MARIJUANA COOPERATIVE.* *Marijuana Cooperative* means any group consisting of two or more patients, and/or their primary caregivers, who choose to associate together in the use or cultivation of medical cannabis/marijuana, or who facilitate the use of cannabis/marijuana for patients and/or their caregivers at any facility or location, fixed or mobile.
- 9. *CULTIVATION.* Cultivation means the planting, growing, harvesting, drying, or any type of processing of cannabis/marijuana plants or any part thereof, whether indoors or outdoors, at any facility or location, fixed or mobile.

E. A medical marijuana dispensary, as defined in Section 16.46.151.A.3, is prohibited in all zones, and, shall be considered a nuisance as defined in Section 16.08.030 of this Code.

F. Cultivation of cannabis/marijuana plants is prohibited in all zones, except that for those locations identified in Section 16.46.151.A.3.a through d., in which event, cultivation may only occur on the interior of the building at the location. Cultivation may not occur in any accessory building or structure. Cultivation of cannabis/marijuana plants other than as provided herein shall be considered a nuisance as defined in Section 16.08.030 of this Code.

Alternate C:

Cultivation of cannabis/marijuana plants is prohibited in all zones, except that for those locations identified in Section 16.46.151.A.3.a through d, in which event, cultivation may occur inside or outside at that location. Cultivation of cannabis/marijuana plants other than as provided herein shall be considered a nuisance as defined in Section 16.08.030 of this Code.

Section 3. Publication and Posting.

A summary of this ordinance and the names of those council members voting for and against the ordinance shall be published once in The Siskiyou Daily News, a newspaper of general circulation, printed and published in Siskiyou County and circulated in the City of Yreka, within fifteen (15) days from and after its adoption. The City Clerk shall post at City Hall a copy of the full text of this ordinance and the names of those council members voting for and against the ordinance. If the charge for publication of this ordinance exceeds the customary rate charged by the newspaper for publication of private legal notices, and the City Clerk determines that it is not feasible to prepare a fair and adequate summary of the proposed or adopted ordinance or amendment, the City Clerk is directed to prepare and cause a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the city to be published at least five days prior to

the City Council meeting at which this to be adopted as provided in Government Code Section 36933(c)(2).

Section 4. If any section, subsection, part, clause, sentence or phrase of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, the validity of the remaining portions of this Ordinance, the application thereof, shall not be effected thereby but shall remain in full force and effect, it being the intention of the City Council to adopt each and every section, subsection, part, clause, sentence phrase regardless of whether any other section, subsection, part, clause, sentence or phrase or the application thereof is held to be invalid or unconstitutional.

Section 5. By the use of such words as "shall" and "must" herein the City Council does not intend to create a mandatory duty upon the city. In imposing duties in this ordinance the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 6. This ordinance shall be effective 30 days after its passage.

Section 7. This ordinance shall not be codified.

The foregoing Ordinance was introduced at a regular meeting of the Yreka City Council on _____ and adopted at a regular meeting on _____ by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

TOM AMARAL, MAYOR

ATTEST:

LIZ CASSON, City Clerk

APPROVED AS TO FORM:

By: _____
MARY FRANCES MCHUGH
City Attorney

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Commissioner Osborn seconded the motion. The motion carried by the following vote:

AYES: Baird, Knitter, Leal, McAllister, Ohlund, Osborn, Rolzinski
NOES: None

PUBLIC COMMENTS

Don Pollard of 1023 Bluebird Street stated he was confused on the action taken by the Commission regarding the Medical Marijuana Dispensaries, City Attorney McHugh explained.

APPROVAL OF THE MINUTES OF THE NOVEMBER 18, 2009 MEETING

The Commission, having received a copy of the minutes of the regular meeting held November 18, 2009, approved the minutes on a motion made by Commissioner Leal and seconded by Commissioner Rolzinski.

COMMISSIONER'S STATEMENTS & COMMENTS

Staff reported that the 2010 League of California Cities Planner's Institute will be held March 24th through March 26th and that we will need to know who wants to attend by the end of January so reservations can be made.

There being no further business before the Commission, the meeting was adjourned at 7:50 p.m.

Pamela J. Hayden, Planning Director