

## Zero tolerance remains in Fresno County medical marijuana ordinance

By Marc Benjamin



A September 2013 file photo shows marijuana plants dumped into a trailer during a raid in Fresno County near Sequoia Elementary School.

ERIC PAUL ZAMORA — THE FRESNO BEE [Buy Photo](#)

Fresno County supervisors made no significant changes Tuesday to the county's highly restrictive medical marijuana cultivation ordinance despite hopes from advocates that it could be altered.

Supervisors did consider ending the outright ban and allowing a maximum of 12 plants, but the board continued to support the zero-tolerance policy in Fresno County's unincorporated areas.

"It doesn't mean that I don't believe there are certain individuals who won't benefit from it, there are medical components and humanitarian components out there, I don't want to sidestep those," said Board Chairman Andreas Borgeas. "This ordinance, however it has been criticized, is having a positive impact and it will continue to have a positive impact."

Borgeas and Supervisor Henry R. Perea both said they favored a hearing officer for medical marijuana appeals

meetings, which have been lengthy and conducted in public. Borgeas suggested that a hearing officer could bypass the state's Open Meeting Law when meeting with residents appealing a fine and their lawyers. Borgeas said it costs several thousand dollars for the board to convene.

But the three other supervisors disagreed with using a hearing officer.

Supervisor Debbie Poochigian said the hearings and code enforcement are "part of our job, that's part of our salaries."

Supervisor Judy Case McNairy said she would like to wait another year to see how future hearings are conducted and to let a new board — including her replacement, Buddy Mendes — decide whether to shift to a hearing officer and allow cultivation of small numbers of plants.

"We have had some pretty testy hearings and this board has struggled with trying to find a balance of fairness, but we need to stay the course," she said.

The extra year, she said, will give the county more of a track record before reconsidering the hearing officer proposal.

Lawyer Brenda Linder, who has filed several cases against the county's medical marijuana ban, said a hearing officer would be more objective than rulings from the county counsel's office, which wrote the ordinance.

Fresno medical marijuana advocate Michael Green said he was initially hopeful the board would allow 12 plants.

"We are very supportive of the 12-plant exemption that would allow limited medical cultivation for qualified patients who do use cannabis for medicine and don't grow it for sale ... for all those things you think this law is attacking," Green said. "The line in the sand that you've drawn is so ridiculous and so out of line with what state law provides, that you're going to become the poster child for fixing our medical marijuana regulations in the liberal legislature, if they have the stones to do it, or at the ballot box where I hope it will become abundantly clear that local regulation of cannabis is a fool's errand."

In other action, supervisors supported a five-year contract worth up to \$22.26 million for a youth psychiatric facility for ages 12 to 18. The county has not had a facility to help young people with long-term psychiatric problems since 2002, said Dawan Utecht, the county's behavioral health director.

The overall cost per bed will be less than the cost to send teens hundreds of miles for long-term care. The psychiatric facility at the old University Medical Center campus on Kings Canyon Road will initially serve 12 youths and grow to 16 and also could serve teens from other counties.

The county also plans to move its teen mental health program for short-term stays from Shields and Millbrook avenues to a site adjacent to the longer term facility on Kings Canyon Road, Utecht said.

"The need in the Valley is huge," said Poochigian. "There is nothing worse than sending kids hundreds of miles away from home when they have these types of issues. Family is the best thing you can have around you at this time."

Just before the 5-0 vote, Perea described the project as "one of the highlights of my career."

Insurance companies and several surrounding counties have been approached about using the Fresno facility, said Kent Dunlap, chief operating officer for Long Beach-based Star's Behavioral Health Group, the firm that will run the facility. The new site could open as early as spring.

Supervisors also voted to accept a \$2.06 million grant for the county assessor's office, but supervisors could not get four votes to appropriate the money to Assessor Paul Dictos.

Dictos said he would add 11 jobs with the three-year grant. He said he wants to bring assessments up to date and modernize the office's computer system, a project he has been working on in cooperation with Vicki Crow, the county auditor/tax collector.

Fresno County could lose the grant money if the supervisors fail to appropriate it, warned County Counsel Daniel Cederborg. “The state will not allow us to keep the money sitting in a fund someplace,” he said.

County Administrative Officer John Navarrette said the county would have to use general fund tax revenues to expand the assessor’s staff unless the grant money is used.

“This money is critical so we can get out of this manual system we have been using for the last 50 years,” Dictos said.

Supervisors Poochigian and Phil Larson opposed the grant. Poochigian said it would allow the assessor’s office to generate more tax revenues.

“This is about taking money out of the taxpayers’ pockets, and if you want to do that, vote yes,” she said.

Larson said Dictos already has raised revenues with higher taxes on Williamson Act properties. He said Dictos supported “an unfair assessment levied against certain taxed groups in the county, and I don’t care what Mr. Dictos said, it was levied against certain tax groups in the county and not equalized across the county. If we’re going to have taxes, let’s equalize them among everybody.”

Borgeas, Perea and Case McNairy supported accepting the grant. Borgeas said the issue is not a philosophical discussion about taxes.

“We are here to figure out whether to accept dollars from Sacramento for an expedited program,” he said.

At Perea’s suggestion, the board will reconsider the grant decision in January when two new supervisors — Mendes and Brian Pacheco — will be seated. Pacheco is replacing Larson, who is retiring.

Contact Marc Benjamin: [mbenjamin@fresnobee.com](mailto:mbenjamin@fresnobee.com), (559) 441-6166 or [@beebebenjamin](https://twitter.com/beebebenjamin) on Twitter.

#### Copyright

© 2014 [www.fresnobee.com](http://www.fresnobee.com) and wire service sources. All Rights Reserved. <http://www.fresnobee.com>