

3/12/12 3rd Reading AGENDA ITEM SUMMARY

DATE: 2/6/12 DEPARTMENT: Legal DEPT. HEAD SIGNATURE: NW

SUBJECT: Community Oversight Committee Ord # 1102

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I was advised that the Community Oversight Committee has not been meeting on a regular basis. Their by-laws require them to meet a minimum of 2 times a year, but they have not had any business to conduct. I asked Peter Lobb, the chairman of the committee, whether the committee would like to amend their by-laws or just terminate the committee. After communicating with the committee members, Peter informed me that the committee would recommend dissolution of the committee. Accordingly, I drafted an ordinance which eliminates the Community Oversight Committee.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____

Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- | | | |
|---|--|---|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Benefits Committee |
| <input checked="" type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
| <input checked="" type="checkbox"/> City Clerk | <input type="checkbox"/> Planning | <input type="checkbox"/> Treasurer |
| <input type="checkbox"/> Building | <input type="checkbox"/> Police | _____ |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Public Works, Parks | _____ |
| <input type="checkbox"/> Fire Dept. | <input type="checkbox"/> P & Z Commission | _____ |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Discuss the merits of eliminating the Community Oversight Committee. If the Council wishes to eliminate the committee, instruct staff to place the proposed ordinance on an upcoming agenda as a public hearing.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date 2/6/2012 - Council heard as New Business, forwarded to Public Hearing on Feb 27, 2012 as drafted.
2/27/12 - council adopted Ord. 1102 & conducted First Reading
City Clerk 3/5 - 2nd Reading

FOLLOW-UP:

*Ord./Res./Agrmt./Order Originals: Record *Additional/Exceptional Originals to: _____
Copies (all info.): _____ Copies (AIS only) _____
Instrument # _____

HAILEY ORDINANCE NO. 1102

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING TITLE 11 OF THE HAILEY MUNICIPAL CODE TO REPEAL SECTIONS 11.04.070, 11.08.070 AND 11.12.070 THEREBY ELIMINATING THE COMMUNITY OVERSIGHT COMMITTEE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the voters of Hailey passed an ordinance by initiative entitled "The Hailey Medical Marijuana Act," "The Hailey Lowest Police Priority Act" and "The Hailey Industrial Hemp Act" on November 6, 2007, which have been codified as Chapters 11.04, 11.08 and 11.12 of the Hailey Municipal Code;

WHEREAS, the Community Oversight Committee has been duly appointed and has been continuously acting since 2009;

WHEREAS, the Community Oversight Committee has recommended that it be eliminated because further work by the committee no longer needs to be performed; and

WHEREAS, the Hailey City Council believes the general intent and purpose of The Hailey Medical Marijuana Act, The Hailey Lowest Police Priority Act and The Hailey Industrial Hemp Act can be maintained without the continued existence of the Community Oversight Committee.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Sections 11.04.070, 11.08.070 and 11.12.070 of the Hailey Municipal Code are repealed in their entirety.

Section 2. **Severability Clause.** If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Section 3. **Repealer Clause.** All Ordinances or Resolutions, including Hailey Resolution No. 2009-05a, or parts thereof, in conflict herewith are hereby repealed and rescinded.

Section 4. **Effective Date.** This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL and approved by the Mayor this _____ day of _____, 2012.

Fritz X. Haemmerle, Mayor

ATTEST:

Mary Cone, City Clerk

medical use is deemed appropriate and is recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, HIV, AIDS, chronic pain, glaucoma, arthritis, migraines, or any other serious condition for which marijuana provides relief. Patients who obtain and use marijuana for medicinal purposes upon the recommendation of a physician shall not be subject to any arrest, prosecution, punishment, or sanction; once a doctor's recommendation has been provided by the patient, any marijuana and/or marijuana paraphernalia charges against the patient shall be dismissed by the prosecuting attorney. Also, physicians who recommend marijuana for their patients shall not be subject to any arrest, prosecution, punishment or sanction. Local enforcement of state law shall be by summons only. All such matters shall only be referred to the Municipal Prosecuting Attorney, and no other prosecuting attorney, and the Municipal Prosecuting Attorney shall not refer the matter to any other prosecutor, agency, or office, unless the individual is also charged with a non related felony offense arising from the same set of facts and circumstances.

11.04.060 Advocacy for Legislative Reform. The City of Hailey is hereby instructed to advocate by official public declaration and through its lobbyist and other city officers, for changes to state law (and laws at other levels of government as necessary) to support the goals and implementation of this ordinance. Legislative changes to be advocated include, but are not limited to, the following:

- a) Amendment of state code to allow for the use of medical marijuana by seriously ill patients;
- b) End any sanctions against physicians who prescribe or recommend medical marijuana to their patients;
- c) Grant local control to cities and counties to license and regulate the use of medical marijuana; and
- d) End the prosecution, arrest, investigation and imprisonment of seriously ill adults who use marijuana for medicinal purposes.

Additionally, the enactment of this initiative by the voters of the city shall constitute said voters' express and official desire for legislative change to the state's medical marijuana laws.

11.04.070 Community Oversight Committee. Upon enactment of this initiative, a Community Oversight Committee shall be appointed to oversee the implementation of the Hailey Medical Marijuana Act. The Committee shall hold regular public meetings and shall solicit input and testimony from members of the public. The Committee will be composed of:

- 1 community member appointed by each member of the Hailey City Council,
- 1 community member appointed by the Mayor of Hailey
- 1 community member appointed by the Hailey Chief of Police,
- 1 representative of the Liberty Lobby of Idaho.

Responsibilities of the seven member Committee shall include:

- a) Ensure timely implementation of this ordinance;

Additionally, the enactment of this initiative by the voters of the city shall constitute said voters' express and official desire for legislative change to the state's marijuana laws.

11.08.070

Community Oversight Committee. Upon enactment of this initiative, a Community Oversight Committee shall be appointed to oversee the implementation of the Hailey Lowest Police Priority Act. The Committee shall hold regular public meetings and shall solicit input and testimony from members of the public. The Committee will be composed of:

- 1 community member appointed by each member of the Hailey City Council,
- 1 community member appointed by the Mayor of Hailey,
- 1 community member appointed by the Chief of Police,
- 1 representative of the Liberty Lobby of Idaho.

Responsibilities of the seven member Committee shall include:

- a) Ensuring timely implementation of this chapter, with the cooperation of the Hailey Police Department and any other Hailey law enforcement agencies in providing needed data;
- b) Receiving any grievances from individuals who believe they were subjected to law enforcement activity contrary to the lowest law enforcement priority policy;
- c) Designing a supplemental report form for Hailey law enforcement officers to use to report all adult marijuana arrests, citations, and property seizure and all instances of officers assisting in state or federal arrests, citations, and property seizures for any adult marijuana offenses. The supplemental report form shall be designed with the goal of allowing the committee to ascertain whether the lowest law enforcement priority policy was followed;
- d) Requesting additional information from any Hailey law enforcement officer who engaged in law enforcement activity relating to one or more marijuana offenses under circumstances which appear to violate the lowest law enforcement priority policy. An officer's decision not to provide additional information may be grounds for discipline; and
- e) Submitting written reports semiannually to the Hailey City Council on the implementation of this ordinance, with the first report being issued nine months after the enactment of this chapter. These reports shall include, but not necessarily be limited to: the number of all arrests, citations, property seizures, and prosecutions for marijuana offenses in Hailey; the breakdown of arrests and citations by race, age, specific charge, and classification as infraction, misdemeanor, or felony; any instances of law enforcement activity that the committee believes violated the lowest law enforcement priority policy; and the estimated time and money spent by the city on law enforcement and punishment for adult marijuana offenses.

Hailey law enforcement officers shall submit to the committee a supplemental report within two weeks after each adult marijuana arrest, citation, or property seizure or instance of assisting in a state or federal arrest, citation or property seizure for any adult marijuana offense in Hailey.

The Committee shall have the power to promulgate rules and regulations not inconsistent with this initiative to govern its own conduct and public meetings. In the event that the voters of the City of Hailey adopt more than one initiative relating to cannabis law reform that contains a provision for a Community Oversight Committee, the committees shall be consolidated for all purposes.

11.08.080 Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

Chapter 11.12

The Hailey Industrial Hemp Act

11.12.010. Title This short title of this initiative shall be and the initiative may be enacted as "The Hailey Industrial Hemp Act."

11.12.020 Findings. The people of Hailey, Idaho find as follows:

WHEREAS industrial hemp can be differentiated from marijuana; and
WHEREAS industrial hemp contains virtually no narcotic or intoxicating properties; and
WHEREAS the reasons for criminalizing the cultivation of industrial hemp appear to be politically motivated with no basis in reason or logic; and
WHEREAS industrial hemp can be used to make a variety of useful products; and
WHEREAS Idaho farmers should have the right to grow industrial hemp; and
WHEREAS in 1996 the Idaho Farm Bureau voted in favor of granting Idaho farmers the right to grow industrial hemp; and
WHEREAS industrial hemp has a long and rich history in the United States as a valuable crop;
THEREFORE the people of the City of Hailey do hereby enact the following ordinance establishing the industrial hemp policy of the city.

11.12.030 Definitions.

"Industrial hemp" means any hemp or hemp product containing one percent or less THC.

11.12.040 Purpose. The purpose of this initiative is:

1. To establish an official policy of the city that is favorable to the growing of industrial hemp.
2. To issue an official declaration advocating changes in Idaho State law, county ordinance, or any other applicable laws to legalize the growth and cultivation of industrial hemp.
3. To stimulate communitywide debate on a public policy issue of great importance.
4. To establish a community panel to oversee the implementation of this initiative.

11.12.050 Official Policy. It shall be the official policy of the City of Hailey that the growth and cultivation of industrial hemp is a positive and beneficial farming activity, and that the legalization of such activity by the state and federal government is favored.

11.12.060 Advocacy for Legislative Reform. The City of Hailey is hereby instructed to advocate by official public declaration and through its lobbyist ~~and other city officers~~, for changes to state law (and laws at other levels of government as necessary) to support the goals and implementation of this ordinance. Legislative changes to be advocated should include, but are not limited to, the following:

- a) Allow for the legalization of industrial hemp by the State of Idaho;
- b) Allow each county or city to decide their own policies with regards to the farming of industrial hemp.

Additionally, the enactment of this initiative by the voters of the city shall constitute said voters' express and official desire for legislative change to the state's industrial hemp laws.

11.12.070 Community Oversight Committee. Upon enactment of this initiative, a Community Oversight Committee shall be appointed to oversee the implementation and enforcement of the Hailey Industrial Hemp Act. The Committee shall hold regular public meetings and shall solicit input and testimony from members of the public. The Committee will be composed of:

- 1 community member appointed by each member of the Hailey City Council,
- 1 community member appointed by the Mayor of Hailey
- 1 community member appointed by the Hailey Chief of Police,
- 1 representative of the Liberty Lobby of Idaho.

Responsibilities of the seven member Committee shall include:

- a) Ensure timely implementation of this ordinance;
- b) Make recommendations to the Hailey City Council regarding appropriate policy decisions to carry out Section [11.12.050] above;
- c) Report regularly to the Council on the implementation of this ordinance;
- d) Any other duty that the Committee deems to be in the best interest of effectuating this initiative.

The Committee shall have the power to promulgate rules and regulations not inconsistent with this initiative to govern its own conduct and public meetings. In the event that the voters of the City of Hailey adopt more than one initiative relating to cannabis law reform that contains a provision for a Community Oversight Committee, the committees shall be consolidated for all purposes. In the event that this initiative is the only cannabis or hemp related proposal adopted by the voters, the committee shall not be formed.

11.12.080 Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

