

Constitutional Amendment on Medical Marijuana

Work Session

Board of County Commissioners

July 29, 2014

Presentation Outline

- **Update on Compassionate Use of Medical Marijuana Act**
- **Review of Constitutional Amendment**
- **Staff Workgroup**
- **Zoning Ordinance**
- **Human Resources Issues**
- **Next Steps**

Compassionate Medical Cannabis Act "Charlotte's Web"

SB1030 - Cannabis

- **Patients and legal representative possess & purchase low-THC cannabis**
- **Suffering from cancer or other medical condition produces seizures**
- **Creates standard of care**
- **Physicians must complete 8-hour course by FMA or FOMA**

Compassionate Medical Cannabis Act “Charlotte’s Web”

SB1030 - Cannabis

- **DOH will monitor physician registration & ordering low-THC cannabis**
- **Creates registry for physicians, law enforcement and dispensers**
- **DOH will authorize five dispensing organizations**
- **Creates penalties – 1st degree misdemeanor**

DOH Rule Workshop

Dispensing Organizations

- Rule Workshop held July 7th
- Rules take effect January 1, 2015
- Authorizes five nurseries in each region
- Public lottery for more than one application for dispensing region
- Central Florida Region consists of Brevard, Citrus, Hardee, Hernando, Hillsborough, Indian River, Lake Manatee, Martin, Orange, Osceola, Pasco, Pinellas, Polk Seminole, St. Lucie, Sumter and Volusia Counties



DOH Rule Workshop

Dispensing Organizations

- Application requirements
- Application fee \$150,000 & post \$5M performance bond
- Biennial renewal requirements
- Denial and revocation procedures
- Compassionate use registry



DOH Rule Workshop

Dispensing Organizations

- **Inspection procedures**
- **Identification, labeling and testing
Low-THC Cannabis plants and products**
- **Recordkeeping & reporting
requirements**
- **Procedural requirements**



Presentation Outline

- **Review of Constitutional Amendment**

Amendment Language

Ballot Title: "Use of Marijuana for Certain Medical Conditions"

- **Medical use of marijuana for debilitating diseases or other conditions**
- **Physicians issue certification for use**
- **Caregivers may assist in medical use of marijuana**
- **Department of Health (DOH) will register and regulate Medical Marijuana Treatment Centers**

Amendment Language

Ballot Title: "Use of Marijuana for Certain Medical Conditions"

- **DOH will issue identification cards to patients**
- **Does not require accommodation of smoking in public places**
- **On-site accommodation not required**

Presentation Outline

- **Staff Workgroup**

Staff Workgroup

- **Focus of Workgroup – Zoning, Human Resources Issues and Public Consumption**
- **Staff Workgroup - County Attorney's Office, Zoning, Health Services, Human Resources, Drug Free Office**
- **Met with law enforcement**
- **Reviewed County Zoning Regulations**
- **Reviewed other local ordinances and County's Pain Management Clinic Ordinance**

Proposed Local Ordinances

- **City of Cocoa Beach – Medical Marijuana Treatment Centers/Marijuana Dispensaries Ordinance (Passed June 19, 2014)**
 - **Special Exception Use – General Commercial**
 - **Additional Conditions and Separation Distances**
 - **Establishes Operating Hours**
- **City of Edgewood– Ordinance Relating to Medical Marijuana (Passed June 17, 2014)**
 - **Permitted Special Exception Use in Industrial Zoning District**
 - **Provides Additional Standards for Approval of Special Exception**

Proposed Local Ordinances

- **City of Mount Dora– Regulating Medical Marijuana Cultivation and Dispensing (Passed May 20, 2014)**
 - Permitted Conditional Use – Workplace District 2
 - Additional Conditions and Separation Distances
- **City of Maitland – Regulation of Medical Marijuana Dispensaries, Non-Medical Sales and Cannabis Farms**
 - Permitted Conditional Use – Commercial District 3
 - Additional Conditions
 - Discussion of Draft Ordinance – April 28, 2014

Proposed Local Ordinances

- **City of Belle Isle – Discussion of Marijuana Ordinance - June 25, 2014**
- **Town of Lady Lake – Regulation and Prohibition of Medical Marijuana Dispensaries, Non-Medical Sales and Cannabis Farms**
 - **Permitted Conditional Use – Heavy Commercial Zoning with special exception**
 - **Prohibits production of marijuana in all zoning districts**
 - **First Reading – July 21, 2014**
- **Brevard County – Discuss Zoning and Regulations for Medical Marijuana – July 8, 2014**

Proposed Local Ordinances

- **City of Flagler Beach– Regulating to Medical Marijuana**
 - **Special Exception Use - Highway Commercial District**
 - **Additional Conditions and Separation Distances**
 - **Prohibited Use – Non-medical Marijuana and Cannabis Farms in all Zoning Districts**
 - **First Reading – June 19, 2014**
- **City of Delray Beach – Establishes Temporary Building Moratorium on Marijuana Dispensaries/Medical Marijuana Treatment Centers for Six Months**
 - **First Reading – July 15, 2014**

Presentation Outline

- **Proposed Zoning Ordinance**

Proposed Zoning Ordinance

- **Option – County-wide applicability**
 - **Under Charter, ordinance could be effective within municipality if it does not maintain an ordinance covering same subject matter, activity, or conduct as county ordinance**
- **Definitions Proposed**
 - **Prohibit Medical Marijuana Treatment Centers (MMTC) as home occupation and exclude from definition of clinic**
 - **Add Definition for MMTC as it appears in amendment**

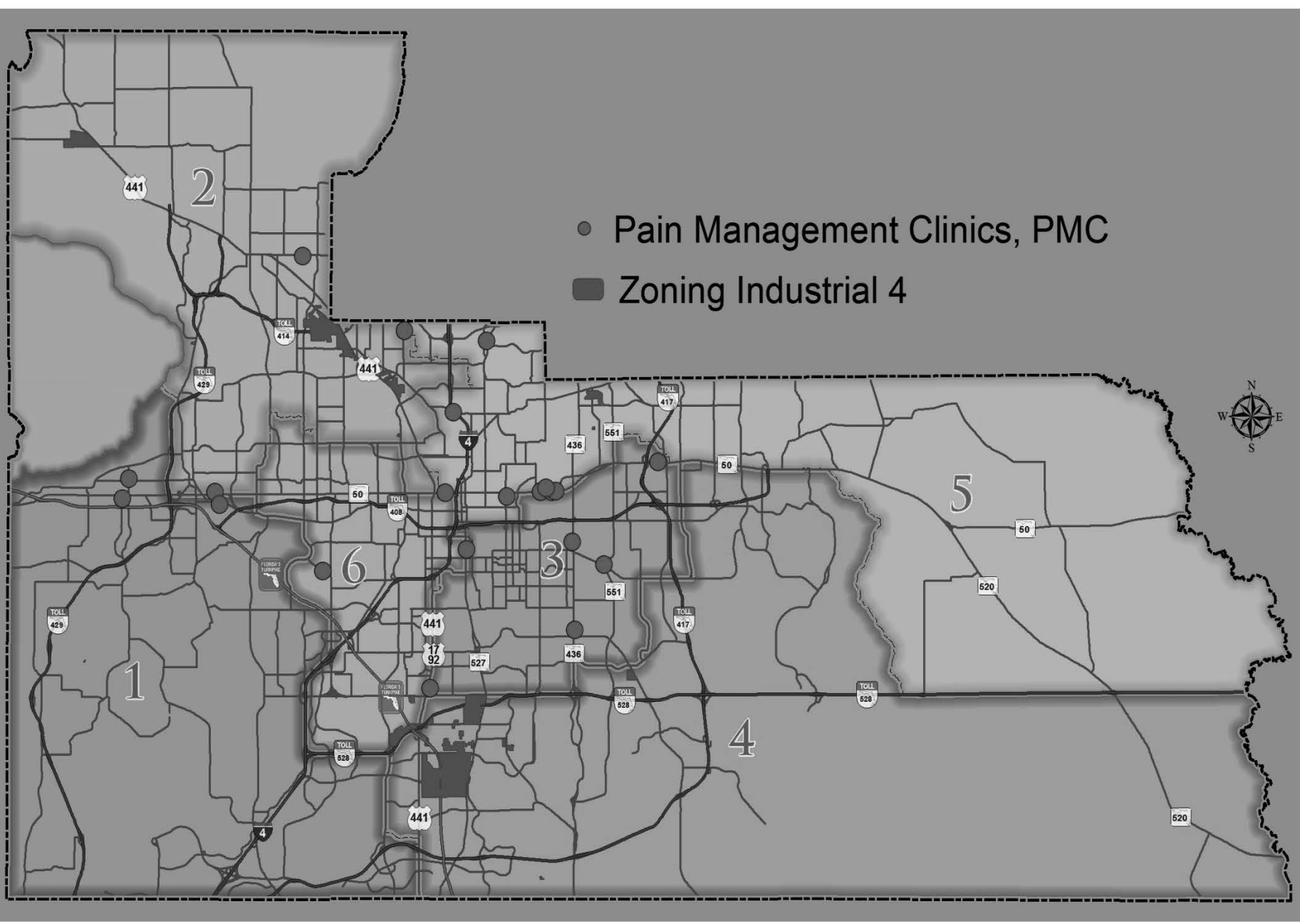
Proposed Zoning Ordinance (cont'd)

- **Zoning District**
 - **No MMTC within 500 feet of any major roadway**
 - **Industrial 4 Zoning with conditions**

- **Conditions:**
 - **Subject to building use/permit**
 - **Separation Distance – 1500 feet**
 - **Pharmacy and PMC**
 - **Package store**
 - **Schools and parks**
 - **Daycare center or home**
 - **Religious institution**
 - **Residential dwelling unit**

Proposed Zoning Ordinance (cont'd)

- **Conditions Continued:**
 - **Parking on site – no queuing**
 - **No loitering**
 - **No drive thru**
 - **No consumption of alcohol or medical marijuana**
 - **Restriction of hours**
 - **Monday – Friday 7am-7pm**
 - **Saturday and Sunday 7am – 12noon**
 - **Regulate building color and signage**
 - **No personal advertising**
 - **Regulate signage**
 - **Regulate/specify building color**



Proposed Ordinance Timeline

- **August 21, 2014 – Local Planning Agency (County P&Z) Work session**
- **September 18, 2014 – Local Planning Agency recommendation and public hearing**
- **October 2014 – Two public hearings before the BCC (pending dates)**

Proposed Ordinance Timeline

- **November 4, 2014 – Election**
- **January 6, 2015 – Effective date of constitutional amendment (if passed)**

Public Consumption

- **Prohibit smoking marijuana in public places - separate ordinance**

Presentation Outline

- **Human Resources Issues**

Human Resources Issues

- **County's Drug and Alcohol Use Policy**
 - **Applies to Illegal/Prescription Drugs & Alcohol**
 - **Applies to all Employees**
 - **Non-Bargaining and Bargaining**
 - **Applies to Candidates for Employment**
 - **Prohibits Unlawful**
 - **Manufacture**
 - **Sale**
 - **Distribution**
 - **Dispensation**
 - **Possession**
 - **Use**
 - **Prohibits being under the influence of drugs/alcohol in workplace, on County property or during County activities**

Human Resources Issues

County's Drug and Alcohol Testing Procedures

- **Types of Testing**
 - **Post-Offer Employment**
 - **Random required by Federal Law**
 - **Commercial Driver's License (CDL)**
 - **Random allowed by Bargaining Unit Agreements**
 - **Post Accident**
 - **Reasonable Suspicion**

- **Confirmed Positive Test Result is Grounds for Termination**

Human Resources Issues

- **County's Drug and Alcohol Use Policy complies with Florida Drug-Free Workplace Act (FS 112.0455)**
 - **Requires:**
 - **Written Policy**
 - **EAP**
 - **Employee Education**
 - **Supervisor Training**
 - **Drug Testing**

Human Resources Issues

- **Medical Marijuana Considerations/Federal Law**
 - **Though legalized for medical use, federal law still classifies Marijuana as a Schedule I drug with no legal use**



Human Resources Issues

- **Department of Transportation (DOT) – Office of Drug Control Policy and Compliance**
 - **Issued Noticed – Department of Justice guidelines will have no bearing on DOT's regulated drug testing program**
 - **DOT will not change regulated drug testing program**
 - **49CFR Part 40 – does not authorize “medical marijuana” under a state law to be valid explanation for transportation employee's positive test results**
 - **Medical Review Officers will not verify a drug test as negative based upon physician recommending employee use medical marijuana**



Human Resources Issues

- **Americans with Disabilities (ADA)**
 - Does not require employers to allow use as a reasonable accommodation even if registered as medical marijuana patient
 - Marijuana classified as illegal drug under Controlled Substance Act



Human Resources Issues

- **Medical Marijuana Consideration/Court Cases**
 - **Ross v Raging Telecommunications (California) – fired for positive test result (condition of employment)**
 - Court concluded nothing present in California or Federal law that would allow employee protections
 - **Other lawsuits alleged employer violation of ADA for reasonable accommodation of medical marijuana use (Colorado)**
 - Cases unsuccessful due to marijuana's classification as an illegal drug under the Controlled Substances Act



Human Resources Issues

- Reviewed Policies of Other Medical Marijuana Counties/Cities
 - Made no changes to Employee Policies
 - City and County of Denver, Colorado
 - City of Vancouver, Washington



Human Resources Issues

- **Recommendation**
 - **Maintain current drug-free workplace policy**
 - **Inform workers compensation doctors of county's drug-free workplace policy**
 - **Develop Communications Plan for Compassionate Use of Medical Marijuana Act & Constitutional Amendment (if passed) –**
 - **Countywide memo to managers & employees**
 - **Restating county's drug-free workplace policy**
 - **Publish and Distribute *Frequently Asked Questions***
 - **Segment on Orange TV – *HR in the Loop***

Presentation Outline

- **Next Steps**

Next Steps

- **Monitor DOH Rule Workshop on Compassionate Medical Marijuana Use Act**
- **Schedule Local Planning Agency Work session and Public Hearing on Proposed County Zoning Ordinance**
- **Continue to Monitor Local Ordinances**
- **Develop County Communications Plan**
- **Address Public Consumption if Amendment passes**

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