

**CALHOUN COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING – MORATORIUM ORDINANCE
JANUARY 2, 2017**

PRESENT AND ACTING:

**DANNY RAY WISE, CHAIRMAN
GENE BAILEY, VICE-CHAIRMAN
DARRELL MCDOUGALD
DENNIS JONES
JERAL HALL**

**MATT FUQUA, ATTORNEY
CARLA A. HAND, CLERK OF COURT AND COUNTY COMPTROLLER
SARAH WILLIAMS, CLERK ADMINISTRATIVE ASSISTANT**

The meeting was called to order by Chairman Wise at 5:01 p.m., CT.

Attorney Fuqua read **Ordinance 2017-01** by title:

2017-01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CALHOUN COUNTY, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON GROWING, CULTIVATION, PROCESSING, MANUFACTURING, DISPENSING, DISTRIBUTION, AND WHOLESALE AND RETAIL SALE OF MEDICAL CANNABIS, LOW-THC CANNABIS, AND DERIVATIVE PRODUCTS, OR ANY RELATED ACTIVITIES; ESTABLISHING A TEMPORARY MORATORIUM ON THE OPENING, RELOCATION, OR EXPANSION OF ANY MEDICAL MARIJUANA DISPENSING FACILITY WITHIN UNINCORPORATED CALHOUN COUNTY; DIRECTING COUNTY STAFF TO DEVELOP PROPOSED LAND DEVELOPMENT REGULATIONS AND OTHER RECOMMENDATIONS REGARDING SUCH CANNABIS-RELATED ACTIVITIES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2014 the Florida Legislature enacted the Compassionate Medical Cannabis Act, codified at Section 381.986, Florida Statutes (the "Compassionate Use Act"), which legalized the cultivation, processing, and dispensing of "Low-THC Cannabis," as defined by Section 381.986(1)(e), Florida Statutes, by a licensed dispensing organization for "Qualified Patients," as defined by Section 381.986(1)(h); and

WHEREAS, in 2016 the Florida Legislature amended the Right to Try Act, codified at Section 499.0295, Florida Statutes, which amended the Compassionate Use Act and legalized the cultivation, production, and dispensing of "Medical Cannabis," as defined by Section 381.986(1)(f), Florida Statutes,

and derivative products by a licensed dispensing organization to "Eligible Patients," as defined by Section 499.0295, Florida Statutes; and

WHEREAS, the comprehensive State licensing and regulatory framework directs that the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of cannabis businesses may be determined by local ordinance; and

WHEREAS, cannabis businesses licensed pursuant to the law have begun cultivating cannabis for processing and dispensing; and

WHEREAS, the dispensing of cannabis is currently illegal under federal law and the United States Drug Enforcement Agency has recently confirmed that cannabis remains a Schedule I drug under federal law, but the United States Department of Justice has discussed federal enforcement of such laws with respect to state regulated cannabis operations in the 2012 "Cole Memorandum," and;

WHEREAS, in November of this year, Florida voters decided to amend the Florida Constitution to legalize the cultivation, production, and dispensing of medical cannabis for a broader population of eligible patients; and

WHEREAS, Florida laws relating to the cultivation, production, and dispensing of cannabis products are rapidly changing – raising substantial questions about whether cannabis-related land uses, as a category of commercial use, may have deleterious and negative secondary effects on surrounding land uses and communities; and

WHEREAS, the purpose of this ordinance is to place a temporary moratorium on Medical Cannabis Activities, as defined herein, for a period of time reasonably necessary for the County to determine the best way to regulate Medical Cannabis Activities for the benefit of the public health, safety, and welfare and to promulgate reasonable regulations relating to such activities if deemed advisable by the County; and

WHEREAS, the Calhoun County Board of County Commissioners hereby finds that the temporary moratorium imposed by this ordinance is intended to give the County the time reasonably necessary to investigate the impacts of cannabis dispensing facilities, and if necessary, to promulgate reasonable regulations relating to such establishments; and

WHEREAS, the County hereby finds that this ordinance advances an important government purpose by reducing the likelihood of the unregulated negative secondary effects of Medical Cannabis Activities; and

WHEREAS, the County has determined it is in the best interest of the public to adopt this ordinance pursuant to the County's police powers and Section 381.986, Florida Statutes, to protect the health, safety, and welfare of the public;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CALHOUN COUNTY, AS FOLLOWS:

Section 1. Findings of fact.

The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

Section 2. Definitions.

- a. **Derivative Product** means any form of cannabis suitable for administration to or consumption or use by a Qualified Patient, Eligible Patient, or any other similarly situated individual.
- b. **Dispensing Facility** means any facility where Derivative Product is dispensed at retail.
- c. **Low-THC Cannabis** means a plant of the genus *cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seed or resin.
- d. **Medical Cannabis** means all parts of any plant of the genus *cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.
- e. **Medical Cannabis Activities** means, without limitation, the growing, cultivation, processing, manufacturing, dispensing, distribution, and wholesale and retail sale of Medical Cannabis, Low-THC Cannabis, and Derivative Products, or any subset of such activities, or any related activities.

Section 3. Temporary Moratorium.

Beginning on the effective date of this Ordinance and continuing for a period of 364 days, or less if provided by an ordinance by the Calhoun County Board of County Commissioners, a moratorium is hereby imposed on the opening, relocation, or expansion of any Dispensing Facility within unincorporated Calhoun County, including but not limited to Dispensing Facilities owned or operated by an approved dispensing organization under Section 381.986, Florida Statutes. In addition, the moratorium is hereby imposed upon all Medical Cannabis Activities by any person or entity that is not an approved dispensing organization under Section 381.986, Florida Statutes, except where inconsistent with Florida law.

Section 4. Study and Recommendations.

During the moratorium period described in Section 3 of this ordinance, the County staff, including Planning & Zoning Department, is hereby directed to study Medical Cannabis Activities and their impact on the health, safety, and welfare of residents and businesses located within the County, and to develop and recommend land development regulations for Medical Cannabis Activities in the unincorporated areas of the County, and any other relevant regulations and recommendations, with such recommendations and proposed regulations being delivered to the Board of County Commissioners within a reasonable time before the expiration of this moratorium.

Section 5. Penalties.

Any person or entity who violates any provision of this ordinance, or who fails to comply therewith, shall be subject to the penalties as prescribed in Calhoun Comprehensive Plan and Land Development Code.

Section 6. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Section 7. Effective Date.

A certified copy of this ordinance as enacted shall be filed by the Clerk of the Board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this ordinance shall take effect in accordance with Section 125.66, Florida Statutes.

Chairman Wise called for public comment on the proposed Ordinance. There was no public comment.

- ❖ Commissioner McDougald made a motion to adopt the Moratorium Ordinance. Commissioner Hall seconded the motion. The motion passed 4-1. Commissioner Jones opposed.

DISCUSSION AND HIRE OF ROAD DEPARTMENT SUPERINTENDENT

Chairman Wise asked if there was a motion at the last meeting to allow candidates to speak up to 15 minutes. Clerk Hand responded the motion stated the top two (2) candidates would be brought back at this meeting. Commissioner Bailey stated his motion was to bring the top two candidates back and let them speak for up to fifteen (15) minutes if they wanted to speak. Commissioner Bailey asked Clerk Williams if the minutes reflect the motion. Clerk Williams responded she does not remember a time limit stated in the motion.

Chairman Wise called Mr. Clifford Edenfield (applicant for Road Superintendent position) to the podium. Commissioner McDougald remarked he has talked to Mr. Edenfield and asked him to calculate a mathematical equation about the amount of dirt needed for the Westside Fire Department project. Commissioner McDougald stated he was very impressed with Mr. Edenfield’s ability to answer the question, and even go a step further to calculate the amount of lime rock needed if paving the area and the transportation costs of hauling the products. Commissioner McDougald stated someone with Mr. Edenfield’s skills and experience is needed at the road department.

Chairman Wise called Mr. Woodrow “Lee” Shelton (applicant for Road Superintendent position) to the podium. Mr. Shelton stated at the last meeting construction experience was mainly discussed, but he did not speak about his experience with local government. Mr. Shelton stated he helped run the County for the past four (4) years as a County Commissioner, and has also worked for the City of Blountstown for approximately two (2). Mr. Shelton stated he has nearly six (6) years combined experience working with local government and knows how to work within a budget. Mr. Shelton stated government and private business are different.

Commissioner McDougald read a portion of the minutes from the Workshop on December 27, 2016. The minutes read "Chairman Wise stated as far as ranking the applications, he would like for each Commissioner to rank each applicant at the bottom of their copy of the applications with one (1) being the best and (4) four being the least; Commissioner Bailey commented the scores will be tallied and the applicant with the lowest score would be the applicant selected for the position and Chairman Wise agreed." Commissioner McDougald stated he has the score sheet and the lowest applicant, Mr. Edenfield, scored a 7 and the closest applicants to him scored a 10. Commissioner McDougald stated he thought the Board agreed to award the position to the applicant with the lowest score in the Regular Meeting, but this did not happen. Chairman Wise stated sometimes personal viewpoint comes in and creates an issue with the ranking. There was further discussion about the scoring of the applicants. Chairman Wise stated the Board would do another ranking of the applicants, 1 being the best and 2 being the least. Commissioner Hall stated the advertisement states a Class A driver license is required for the Road Department Superintendent position. Commissioner Hall asked the applicants if they have a Class A license. Mr. Edenfield responded he has a Class A license, and Mr. Shelton stated he has a Class B license but the Board's policy states a Class B license is the minimum requirement. Clerk Hand and Attorney Fuqua tallied the scores. Attorney Fuqua announced Mr. Edenfield had a score of seven (7) and Mr. Shelton had a score of eight (8).

- ❖ Commissioner Bailey made a motion to hire Mr. Clifford Edenfield as the Calhoun County Road Superintendent for \$50,000.00 annual salary for the six (6) month probationary period with a review of the salary upon successful completion of the probationary period. Commissioner McDougald seconded the motion. The motion passed unanimously 5-0.

CLERK HAND - CLERK OF COURT AND COUNTY COMPTROLLER

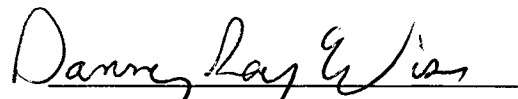
Clerk Hand asked the Board for approval for Jace Ford, the Mosquito Control Director, to attend a mosquito control conference. Clerk Hand stated \$500.00 of the approximate \$1,000.00 cost will come from the state through a reimbursement and the other \$500.00 will come from the Mosquito Control Budget. Clerk Hand stated Mr. Ford will need to register for the conference tomorrow in order to attend.

- ❖ Commissioner Bailey made a motion to approve Mr. Ford's request to attend the mosquito control conference. Commissioner Hall seconded the motion. Commissioner Bailey inquired if Clerk Hand is asking for the Board to pay Mr. Ford for his travel time on the Sunday he will be driving to the conference. Clerk Hand stated she is asking for permission for Mr. Ford to register to attend the conference. Clerk Hand stated Mr. Ford is traveling to the conference on a Sunday noting the conference starts on Monday afternoon, and there is nothing in the Board's policy about paying for time traveled on a weekend. Clerk Hand stated federal law states travel time outside the normal work day does not have to be compensated, but this does not mean travel time during non-working hours can't be compensated. Commissioner Jones stated if Mr. Ford does not have to be at the conference until Monday, he should not be paid for his travel time on a Sunday. There was further discussion about travel time. Clerk Hand stated Mr. Ford is not driving the County vehicle and will only be reimbursed for fuel, not mileage. The motion passed unanimously 5-0.

SUPERVISOR TRAINING ON DOCUMENTING PERSONNEL ISSUES

Chairman Wise stated he has noticed some of the department heads may need a refresher course on how to document personnel issues. Chairman Wise asked Clerk Hand if she had a chance to check on any training dates. Clerk Hand stated she has not checked on any dates, but can do so if the Board desires. Chairman Wise asked the Board by consensus if they would like for Clerk Hand to check into some training dates. Commissioner McDougald asked what training would be required. Chairman Wise stated the labor law attorney the County uses in Tallahassee could teach the course. Attorney Fuqua stated the biggest problem he's encountered with labor employment law is supervisors being unwilling to properly rate employees on performance reviews. Chairman Wise stated this training would teach the department heads what to do as far as recording employee performance. Commissioner McDougald asked if there is a specific program for teaching the course. Clerk Hand stated someone would need to come sit down with the department heads to review the information. Commissioner Bailey stated he would think a human resources officer would be best suited to teach the class. Chairman Wise stated he would like to see a labor law attorney teach the class. Attorney Fuqua stated he could schedule someone who deals with strictly labor law to teach the course. Chairman Wise asked if this training has ever been done with the department heads. Attorney Fuqua stated he does not believe there has been any training. Chairman Wise called for public comment. Mr. Elton McDaniel stated the labor lawyer the County consults with, Attorney Krizner, comes to the County annually and speaks to them about workers comp and other issues. Clerk Hand stated he mainly comes to conduct an audit and look through the personnel files to make sure personnel files are in order and if any employee reviews have been done. Clerk Hand stated he has not found any employee reviews in the personnel files. There was further discussion about the training. The Board came to a consensus for Clerk Hand to set up a date for the personnel training.

There being no further business, the meeting adjourned at 5:30 p.m., CT.


DANNY RAY WISE, CHAIRMAN

ATTEST:


CARLA A. HAND, CLERK