

**CITY OF CERES  
PLANNING COMMISSION  
MINUTES**

**April 16, 2018**

**MEETING CALLED TO ORDER:** 6:00 p.m.

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Chairperson Smith.

**ROLL CALL:**

**PRESENT:** Commissioners: Condit, Del Nero, Johnson, Kachel,  
Chairperson Smith

**ABSENT:** None

**ALSO PRESENT:** Director of Community Development Tom Westbrook, City  
Manager Toby Wells, Director of Engineering Services/City  
Engineer Daryl Jordan, City Attorney Nubia Goldstein,  
Administrative Secretary/Deputy City Clerk Ann  
Montgomery

**CONFLICT OF INTEREST DECLARATION:**

None

**CITIZEN COMMUNICATIONS:**

- Leonard Shepherd – 2841 Fowler Road, Space 71, Ceres, CA

Mr. Shepherd remarked that there are a lot of people who really don't care about the City of Ceres and they live here. They put their garbage out on the street and he refers to it as "mattress row." He pointed out that when people come to visit in Ceres, they don't see the beauty of our parks and some of our trees; they see mattresses, chairs and stuff on the roadways. He doesn't know how we're going to stop that, but feels we need to try to do something.

- Shane Parson – Downtown business owner and property owner

Mr. Parson stated that he would like to address the Planning Commission, noting that he has one other business owner in attendance with him and there were supposed to be a few more. He explained that they're having a few issues downtown, and guesses that some of it is from the homeless; some of it is from drug abusers that come downtown. They've had several break-ins. He'd like to see how they would go about, and he'll try to

get more people involved, as far as downtown business owners, on what they might do to help out, to try to make our beautiful new downtown maintained that way. We have a business that's been open for a week, and they've already been broken into. We've got some money and suggested we could do cameras. He'd like to know how we could go about that, and knows that the Planning Commission (Ceres Downtown Revitalization Area Board) is in charge of that money. He asked if they could be a committee, to try to divert some of that money and possibly do some things. He came to the meeting tonight for some guidance. He's working with all the neighbors on the alley, where he has some businesses. They're looking at possibly closing the alley; maybe putting some gates up. Whatever they can do, they'd like to be able to do also, but maybe there's some of that money available for something. He knows our Police Department is a little stretched financially, because of our City's situation, but asked what they can do as business owners to help out. He's not here to complain that the Planning Commission isn't doing enough, as the business owners and property owners basically have done nothing. So, if there's some guidance he can get to try to organize some people and see what we can do, that's what they'd like to do.

Chairperson Smith thanked Mr. Parson for bringing that to the Commission's attention, noting that she's assuming that he is referring to the Ceres Downtown Revitalization Area Board. She explained that they do receive reports on a quarterly basis about the activities of the Board, but she appreciates him bringing this to the Commission in between those reports. She asked if Mr. Parson has spoken to anyone on staff about this yet.

Mr. Parson responded, limitedly. He has talked to staff about closing the alley situation. He has one business owner that he hasn't been able to talk to yet; he has spoken to one of her managers and they seemed in favor. We have to see what that's going to take and what we need to do, to do that particular thing. He knows of two businesses getting broken into; there was a guy that stole something from the back of Pastas Pronto the other day. Mr. Parson explained that he makes it a point to try to come into town every morning somewhere between 4 and 5 and drive around, because he's gotten a house that he's fixing up for his son, broken into three times, on the corner of 6<sup>th</sup> and North. The other day, and he told the upper management of the Police Department, there are guys camped out at the back of the doctor's office over here, on the weekend. That's their weekend home, as there's nobody there at Dr. Park's office. He understands that there are some areas they can work through on the bicycle riders, because that's a big part of our problem right there.

Chairperson Smith asked the City Manager, Toby Wells if there's currently an effort with regards to this increasing crime in the downtown. Obviously, homeless is not just an issue in Ceres, but up and down the valley. Are there any efforts that we are currently undertaking?

Mr. Wells responded that we're fighting an uphill battle, as everyone else is in the valley is determining the impacts of what efforts have been done at the state are creating tremendous havoc across this valley. Our efforts are pretty limited, just because of staffing. What we do encourage, is the private property owners to take every action they can. We do have a lot of efforts with folks doing private security as well as putting in cameras; those help. But, focused effort on just the downtown, we don't have that currently. Our last conversation with Mr. Parson was not related to CDRAB expenditures, it was more focused on the alley. Mr. Wells noted that what Mr. Parson

has brought up this evening, he had not heard from him specifically. So, obviously he will sit down with Chief Smith and see if there are any ideas he might have to deal with the security issues. We were more focused on the request that he had relative to closing off the alley.

Chairperson Smith interjected, and then at the next Planning Commission meeting, can we also have a Ceres Downtown Revitalization Area Board meeting, where we can have a discussion about the progress or discussion that Mr. Wells had between now and then, and what ways the Board might be able to assist, with regard to funding, or any other effort.

Mr. Parson stated that it is his understanding that because the Downtown Business Owners haven't been proactive, that's basically why it's put into the Ceres Downtown Revitalization Area Board's hands. Hopefully, he can get; you know, we have a beautiful downtown. He's looking to bring more business down there. He explained that Sam called him and asked, what are we going to do. He did meet with the owner of the Rusty Nail and asked if he was going to have time to come down to the meeting tonight, noting that he's got some other buildings/businesses he wants to bring down here. So, if there's a way that there's some of that money available; he doesn't really know how that works to even spend it. And, he has talked to Chief Smith, and certainly they've talked about the alley issue just after the break-in. Earl Chapman was the one stealing stuff behind the building the other day. All the police know Earl. Mr. Parson explained that after he had a small conversation with Earl, he guaranteed that he wasn't going to be down along Main Street anymore. We'll see how that works. He then asked, what do we need to do to be a party to the discussion.

Chairperson Smith remarked that she thinks that the City Manager and either someone from his staff or himself to connect with Mr. Parson, the Chamber, the Downtown Businesses, get together, come up with an idea about how the Board can help with regard to funding. We need to verify and make sure that the funding spent on security measures is an appropriate use of the funds, and then let's come back and have a conversation about how we can do that. She then asked; does that work.

Mr. Wells replied, of course.

Mr. Parson stated that's perfect; thank you.

**CONSENT CALENDAR:**

1. Clerk's Report of Posting. The Agenda for the regular meeting of the Planning Commission of April 16, 2018 was posted on April 12, 2018.
2. Approval of Minutes
  - a. March 19, 2018 (all present)
3. Annual Progress Report on the Implementation of the City's Housing Element – Information Item.

**ACTION:** It was moved by Commissioner Kachel; seconded by Commissioner Del Nero to approve the Consent Calendar. Motion passed by the following vote:

AYES: Commissioners Condit, Del Nero, Johnson, Kachel, Chairperson Smith  
NOES: None  
ABSENT: None

## **CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR**

None

## **PUBLIC HEARINGS:**

4. Ordinance No. 2018-1045 – Amendment to Cannabis Ordinances 2017-1039 and 2017-1043; Zoning Ordinance Text Amendment of Section 18-04.002 of the Ceres Municipal Code, Relating to Adult Use Cannabis; Adoption of Resolutions to Recommend Adoption of Ordinances to Amend the Development Agreements between the City and Kase Manufacturing, Pacafi Cooperative Inc., and Kase’s Journey; Development Agreement Annual Review for Kase Manufacturing.

City Manager, Toby Wells presented the staff report, stating that it’s his pleasure to provide an update and look for direction on several topics, noting the extensive list of attachments in the packet, to effectively amend the Development Agreements with the three businesses that we have chosen to do business with under the cannabis rules that were adopted in 2017.

Mr. Wells stated that he will provide a bit of background, leading up to this evening, and then will explain the actions that are asked for this evening.

Mr. Wells remarked, as the Planning Commission may recall, back in early 2017, at the direction of the City Council, we marched down a road, very carefully and very pragmatically of entertaining the opportunity for potentially allowing cannabis operations within our City. And so, after a lot of conversations, a lot of study sessions with the Council, the first Development Agreement was put into place in May of 2017, for the Kase Manufacturing facility. That facility is the manufacturing site; it does include a small cultivation. It was approved by the Planning Commission and the Council. It’s a medical use only facility, in 2017. Several months later, after additional conversations, and additional direction from the Council, two dispensaries were approved; one for PCF, Pacafi, and then the second one, for Kase’s Journey. Both of those facilities were authorized for medicinal use only. On the basis of the regulations that were drafted from the State in the middle of 2017, that had a relatively defined line between adult use and medicinal cannabis. However, in 2017, the world changed again, relative to regulated cannabis. In California; just trying to figure its way through this process, and they rescinded their draft regulations and issued emergency regulations. They were under a statutory requirement under Prop. 64, which passed these regulations, that they had to have regulations in place by January 1 and realized that they were not going to make it under their rule-making process. In addition the MCRSA, Medical Adult-Use Cannabis Regulation Act, changed those rules as well. So, they rescinded the draft regulations and issued emergency regulations. In those emergency regulations, the line between adult use and medicinal got really, really narrow. From a practical standpoint, there really was no functional difference between the two. And their licensing as such, is really simply exactly the same; you’re just labeling your application and the type of license you’re asking for, with an “M” or an “A.” So, from that perspective, the issuance

of those emergency regulations then kind of pushed us into this conversation; is there truly a difference at the state level on the two licensing types, between adult use and medicinal.

Mr. Wells continued; and so after a conversation with the City Council on January 22<sup>nd</sup>, the Council made the determination that they did not see a functional difference and directed staff to move forward with allowing the adult use within the parameters of those three Development Agreements. That was issued with a side letter, a copy of which was provided at the dais this evening. That side letter allowed for, because of that state regulation change, the adult use to be allowed at those three businesses. And so, this evening we'll walk through the process of formally amending the regulations to allow for the adult use as well as the clean-up for that.

He paused to see if there were any questions with that framework.

Chairperson Smith asked if there were any questions of the Commission.

Being none, City Manager Wells continued with walking through what that means to make this change for the Development Agreements; the first amendment.

Mr. Wells explained that the framework that was put in place was an ordinance, a Zoning Ordinance Text Amendment, and then the Development Agreements. So, in order to be consistent with all of those parameters, we have to change each piece of that to eliminate the medical only pilot program and move that to allow for both uses; the adult use and medicinal. He uses this interchangeably, but adult use was previously referred to as recreational, but for the most part, he shifted his terminology to be consistent within the state regulations and state law. So the same, marijuana versus cannabis. The more he has talked about this topic, at nauseum, the more his language has shifted to match what's in the state regulations, for consistency purposes. If he does use them interchangeably, adult-use, recreational, the same; cannabis, marijuana, the same; it's just the structure that's in place.

Mr. Wells continued, the first piece to change would be the ordinance, amending the two previous ordinances, which were adopted by 2017-1039 and 2017-1043. Those were the mechanisms that were put in place to create the pilot program. This amendment would allow for the change in the ordinance to not say medical only; would allow for adult use, so that these three businesses would be consistent at the ordinance level. Zoning Ordinance Text Amendment would be the same thing; removing the medical only for the adult use, and then the Development Agreements, cleaning up that language difference of medicinal only. And on the D.A., a couple of little minor changes that he'll reference; a couple of clean-up items relative to the difference between of where we adopted, especially Kase Manufacturing, because it was adopted earlier than the other two. But also, the other change that was made was the licensing; the differential between the manufacturing and the retail piece. So, manufacturing being understood, is that's where the product is packaged and extracted and made into different, call it "edibles" or other forms of cannabis. Early regulations; distinguishing between who was responsible for what aspect of packaging, and the retail side of that was a little clearer than it is now. And they shifted some of those responsibilities between those licenses from what the earlier regulations were. So, what we've asked for to provide here, is a distributor license, primarily related on the Kase Manufacturing side, when they make a packaging decision, they have to label the product as an "M" or an "A." That's kind of at

the early part of the process. So, in order for them to do that packaging and then send it out, under the distribution, they have to have both licenses or they're stuck in just the one path of medicinal. So, by giving the distributor license, they're able to make that packaging decision there in their facility and then send it out to the dispensaries with those separate packaging items.

Similarly on the dispensary side of things, if they were to take in bulk cannabis, under the regulations that they mentioned now, they're not able to package those unless they have a distribution license, into the smaller packages. So again, the licensing change shifted where those different license types live versus when we drafted the regulations. It can be a little complicated, but in essence, by allowing the distributor license, it gives those operations a little more flexibility, as to how they control the product in the supply chain as it moves from cultivator to distributor to dispensary, who is doing the distribution can shift, based on that license type. So, we're recommending to add the distributor to all three Development Agreements to allow them to have that flexibility for operations. For the dispensaries, they don't know really how much they're going to use it. It just depends on the supply chain and what product they're selling, but it allows them that flexibility to think what's important for them to control their supply chain. And, as he said before, their success is our success. So making sure they have the tools to be successful in this operation. That's the piece that gets a little unique, with adding that distributor license. But, those are the pieces, again. With the change in state law, from what we expected under the draft regulations, to what the emergency regulations are, which for the most part expect those to be the final regulations, which may happen by the end of this calendar year. They're saying it's going to come soon, but he's not holding his breath at this point.

So, that's the Development Agreement piece, and then the last piece, is as we get close to a year, and it's hard to believe that we're close to a year. May will mark a year that Council approved the Development Agreement for Kase Manufacturing. We thought it was appropriate to do the annual review of that Development Agreement, and as stated in the staff report, Kase Manufacturing has upheld all of their obligations, have been a model citizen from our perspective. They've been open to tours and they've been open to our Fire Department, our Police Department coming to their facility. They've been absolutely great to work with. Their payments have been made on time, very timely, with no issues, and we strongly recommend from a staff perspective, that we move forward with them and continue with no exceptions to their overall operations. These changes that we're recommending on the Development Agreement, we do believe will help them to be even more successful than they're already being. Mr. Reynolds is not able to be here this evening because he is entertaining some clients from out of the country. So, if that gives you any idea of the kind of reach of this industry and its growth. It is rather remarkable how quickly this industry is changing and how things are changing. He gave the Commission one little anecdote that was in the news the last couple days on this industry. Several months ago, Attorney General Jeff Sessions set this industry kind of on its head with some comments he made about going after the states and their ability to do this. President Trump on Friday, and it wasn't really caught in the news because there was a few other things going on. But he, in essence said he doesn't support Jeff Sessions and he fully supports the states' rights to do whatever they would like with cannabis and he would support a federal process to undo any of those restrictions. So, big deal to the cannabis industry in California that was signaled just on Friday that President Trump is going to change directions from his Attorney General, which is quite fascinating. He won't comment on the politics of that, but what that means

for the industry in California is a pretty big deal because it really starts to loosen one of those concerns, some of the banking challenges and others things that were coming up, getting really close to being solved, all went on the brakes when the Attorney General came out with a pretty strong comment in the other direction. That again, now flipped back the other direction as of Friday. Like he said, this industry is not for the faint of heart, as it is continuing to be very dynamic in how it's changing over the course of time, but from a grand scheme of things, the financial aspect of the adult use is beneficial as well to the City of Ceres, in that, not only are we receiving benefit under the Development Agreements, and the framework that was put in place there, the adult-use does have a sales tax component, so any sales that the two dispensaries are selling are subject to sales tax and so the City would generate the 1.5%. Normal sales tax is 8.375%. Of that, the City gets 1% general plus a half cent for Measure H. So, we see a benefit from the adult use side that we don't see on the medicinal side. So, that is something of an upside. Unfortunately, we haven't seen what that number is yet, because there is a lag in sales tax. But, that's an additional benefit for going in this direction. We'll say, as you recall, the dispensary Development Agreements were structured with a bracketed system, so a \$40,000 a month floor up to \$100,000 for the first two full months. The first Development Agreement has exceeded and capped; basically hit their maximum for the first two full months. The second dispensary is not fully operational. They just began operations; their first full month will be due on May 15<sup>th</sup>. So, we won't know their productivity until their first payment on May 15<sup>th</sup>. But, up until this date, all payments are current for all three Development Agreements. They continue to be very timely; early in most cases. With that, Mr. Wells stated that he is available for any questions the Commission may have.

### Commission Discussion

Chairperson Smith asked Mr. Wells if he could just share if there have been any security issues that have arisen at either of the facilities.

Mr. Wells responded that as of today, there have been no security issues and no calls for service from our Police Department. He joked unfortunately with some folks that we have more calls for service from Walmart than we do from any of the three cannabis facilities, with more revenue on our dispensary and other sites than we're seeing from Walmart, if that puts things in perspective. As one of our single largest sales tax generators, these industries are surpassing the efforts of Walmart.

Commissioner Del Nero inquired, so the first, a year ago, we voted on what he calls oils or whatever.

Mr. Wells interjected, it's not just oils. The manufacturing process; that is one of the products, is the oil. The extraction process is the manufacturing, but the manufacturing process is a little more broad than that. It allows for multiple variations of a cannabis product.

Commissioner Del Nero continued, so what we're going to go into today, is sales at the dispensaries?

Mr. Wells responded, no, it actually affects both operations; both the manufacturing component, but again because of the regulation, the product is exactly the same. So, the plant that goes into the extraction process; it comes out and can be made into oil, or

edibles, or anything else. That manufacturing process is 100% the same, but when it gets distributed to the dispensary, it has to be labeled at that point. That manufacturing process has to put on that bottle, that edible, whether it's an adult use or medicinal product. And, there are little differences in there, but they have to make that determination at that point in time. So, in order for them to have the full functionality of their plant, having both uses allows them to do that. That applies to both the Kase Manufacturing Development Agreement as well as the two dispensaries, because they have to be able to have both of those options in order to sell, whether it be just in the adult or in the medicinal piece. That's what this change does. In the grand scheme of things, it's formalizing what the Council already authorized.

Chairperson Smith stated that she knows the City of Modesto is in the process of finalizing their process for allowing adult and medicinal use or sales, and Stanislaus County is as well. Riverbank said no, is that right?

Mr. Wells clarified that Riverbank has actually allowed two. Oakdale had said yes, but they haven't approved any yet. Patterson has approved six Development Agreements, but nothing is currently operating. They do have several in the construction process. Those are the only ones in Stanislaus County. Turlock, Hughson, Waterford and Newman have all said no across the board.

Chairperson Smith summarized that four of the nine cities said no; the other five said yes.

Mr. Wells continued, and obviously there's a wide spectrum of how that's being processed. Again, Oakdale said yes, but they haven't approved anything yet. Riverbank said yes, and they've got two. So, there is quite a bit of a variety there. There's a report out today that less than one in seven cities in the state have full access, meaning there are no restrictions at all. So about one in five have some access to commercial cannabis.

Chairperson Smith remarked that she imagines that this first 18 months, two years is going to be watched by some and experimented by the other.

Mr. Wells stated that's correct. What everyone is seeing, is there are a lot of guinea pigs out there, to see what the products are; what the experiences are; what are the upsides, what are the downsides. You know we're fortunate and we consider it a success so far, that we haven't had a call for service. We're not seeing any downside as of yet. We know there are issues and there are impacts; hence, why we have the arrangement in place. But, so far, so good. He does tip his hat to the operators, because all three of them are doing a very good job and they're consistently communicating; have open communication with myself and other staff, and like he said, our public safety staff especially. They're very open to allowing our public safety staff to come in anytime to check in and see how things are going, putting in safety protocols, to ensure the safety of both their customers and their employees.

Commissioner Condit asked City Manager Wells if we have the revenue or ballpark revenue; does he know that off the top of his head.

Mr. Wells asked on what basis.

Commissioner Condit responded, for all three; on how much it has brought in.

Mr. Wells explained that for the current fiscal year 2017-2018, we had budgeted \$300,000. We do expect, based on a minimum projection, for that number to get closer to \$500,000. Likely, depending on their success, it could be a little higher than that. We try not to be overly optimistic and don't want to count our chickens before they're hatched. But, in the next fiscal year, based on those minimum criteria, it could be well over a million, million and a half dollars.

**The Public Hearing was opened at 6:33 p.m.**

- Leonard Shepherd, 2841 Fowler Road, Space 71, Ceres, CA

Mr. Shepherd asked if any thought has been given, (he reads on the internet a lot); he was reading that about 15 or 20 people died from "mock marijuana," and it was because of insecticide.

Mr. Wells clarified that it was a synthetic product and that actually kind of makes the point for this process, and a legalized, regulated process, because that doesn't happen in a regulated process with Track and Trace. This product, when it's all fully implemented, you'll be able to know where this product has been grown from the seed to the final product. And that very issue is one of the challenges in an unregulated market that most people are very concerned about, because those particular situations create tremendous problems.

Mr. Shepherd commented that that rang a bell in his mind as to what's going on in Ceres.

Mr. Wells stated that these legitimate businesses are doing this, subject to tremendous regulation and fees to ensure their customers are getting a high quality product that is safe from those very concerns.

Mr. Shepherd remarked that was good. As long as the money keeps rolling in, and we can keep the "near-do-wells" from hanging around where the dispensaries are, to see if they can't change a little bit from somebody who is a recreational user. He knows he's read about that being on in some of the places, like in Colorado where a new industry, kind of, you might say has sprung up and the fact that there are people buying it and then redistributing it out on the street. But, he can't prove the validity of that, because there's just hundreds of thousands of things show up every day on the internet. So, he's just hoping that this is something that; it seems to be well thought out; it seems to be well regulated and that is something that we really need to be on top of and it seems like Mr. Wells and the staff are on top of that. Mr. Shepherd noted that Brent Smith and company are probably very happy to not have any problems like they have at Walmart. So he thinks, keep it going; you're in the right direction, and he knows there are people who abuse it. He has never smoked marijuana, never took anything like that, and no, he doesn't believe that now it's going to lead to all the other drugs and stuff because it's legal. And, it's well maintained and well monitored; that's good; to keep people from having the bad stuff that will kill you. Thank you.

- Scott Young – 2617 Blaker Road, Ceres, CA

Mr. Young remarked that he has a couple of questions. He saw an article on television the other night about the black market versus what's happening right now, especially with the increase in taxes on regulated marijuana. He just wanted to know if that's something that is being addressed by this city to ensure that it doesn't run businesses that we're working with right now out of town or out of business.

Mr. Wells explained, there are two levels of taxation; one at the state level, which is the excise tax that was included in the Prop. 64. There is a bill currently pending at the State Legislature to reduce that on a temporary basis from 15% down to 11%, which would be very helpful. We are continuing and we're not changing any of our structure with this proposed Development Agreement, but we're continuing to monitor how our partners in the situation are managing and so far, it's still working for them. This is an open conversation with them to assure, as he mentioned, and he'll keep referencing that, their success is our success. We'll ensure to monitor that the conditions are right for them to continue to be in business and be successful in business.

Mr. Young stated that he had one more question. Who inspects or regulates the packaging once it reaches the dispensary and they decide what is going out? One of his concerns is children getting a hold of mom and dad's product.

Mr. Wells explained that's one of those areas where the regulations at the state level are pretty stringent. They are allowing some flexibility as we're moving into this regulated market, but there are very specific state regulations and they are hiring their inspectors now to go out and do those inspections, but it will be at the state level that are responsible for that packaging, not at the local level. That packaging has some very strict and specific requirements that they can't look like candy and they have to have very old packaging that is not attractive. It's written in the regulation that it not be attractive to children. That is a concern, obviously.

Mr. Young asked, if there are any violations, is that reported back to the City of Ceres.

Mr. Wells stated that's correct, noting that any license violations we do, because of the dual licensing process, (so the license is at the local and the state level). And again, it's still new so there are nuances to work out; but there's supposed to be reporting between the two.

### **The Public Hearing was closed at 6:39 p.m.**

#### Commission Discussion

Commissioner Johnson asked if there is a limit when a person goes in, as an adult that they can buy, say for recreation use.

Mr. Wells inquired, on your purchase? There's not a limit on your purchase, but there are limits on what you can have in your possession. That's where, and he doesn't remember off the top of his head, and asked City Attorney, Nubia Goldstein.

Ms. Goldstein responded that she didn't remember the specifics, either, but there are actually limits for sale of the raw product. So, in terms of the weight, and she can't remember those numbers off the top of her head, but those are set in the emergency regulations.

Commissioner Johnson inquired if it was a fairly significant amount that one can buy. He stated that it triggered a thought in his mind, and asked how easy would it be for someone to buy a bunch and start distributing it to minors.

Ms. Goldstein explained that it's measured in, she believes in grams.

Mr. Wells interjected, and the likelihood of resale based on you're going to be paying that higher tax level, then to go and try to sell it; it's kind of backwards thinking that you're going to go pay the highest price and then you're going to resell that.

Commissioner Johnson remarked that people want it bad enough would be willing to pay good money for that.

Ms. Goldstein explained that one thing, right now that she's heard other jurisdictions raise this issue and she thinks the state is going to start implementing some type of regulation for it, but is similar to you know how you want to buy certain cold medications over the counter, there was at some point a log that you had to sign. They're trying to come up with a system that's integrated electronically so that across the board, it would flag. So, that if somebody comes in and wants to buy a certain limit, of either if it's in plant form, or it's in processed form, and they hit that cap, there's a red flag that goes up that warns the operator that they can't sell beyond that limit.

Commissioner Johnson remarked, as he said, forgive his ignorance.

Mr. Wells assured Commissioner Johnson that there's no ignorance around this topic. It's a new industry and we're in a regulatory framework that is still being worked out. Anything that you're thinking of, someone else is thinking it as well. And this is again, as he mentioned, being nimble and reactive to changes in an industry that we're all figuring it out at the same time. The operators again, while we have this close relationship with them, because they're figuring it out too. As they're having their customers and their interactions, these iterations will go back and forth as we try to figure out what's the right balance here between regulations and allowing the market to work as it's intended. Because that was one of the intents of the black market was a well-regulated product to help put a significant stranglehold on that black market. He's not a user and that's not something he wants to use, but if somebody he knows is going to use it, he would much rather them get it from a product that is regulated and know exactly where it came from. So that's part of that whole thing where you've got to balance between too much costs and shifting people back to the black market. Everyone is trying to figure out where that right spot is. It will likely change several times in the next few years as we all mentioned, Chairperson Smith, where this market kind of balances out to; everyone is trying to figure that out.

Commissioner Kachel stated that he's just gratified that as much as this is changing and agencies are still trying to get their hands on it, that Mr. Wells has been right on top of it to the point where we're actually making modifications on an ordinance that is less than a year old, based on the current thinking of what's gone on at the state level. In other words, the regulatory process that you and the staff here and legal people have implemented for Ceres seems to be working very well, and he feels good about that.

Commissioner Condit remarked that he's going to go back to the comments he said at the two meetings that he was at when the Commission voted on it. We've got to think, \$300,000 was our estimate; we're going to be at \$500,000; it's going to over a million dollars yearly; we've got to think about what we're doing with this money. It's precious to us in this small city. And Public Safety, we heard from Mr. Parson, we're hurting. He thinks we should limit this money, earmark it just for Public Safety; Police, Fire and Code Enforcement; not going blankly into the General Fund, we need to earmark it strictly to that. And, if there's no more discussion, he's going to make a motion for the three Development Agreements to add that amendment in there.

Chairperson Smith stated that she does have a comment before that motion is acted on. And that is that she wants to echo Commissioner Kachel's comments. To City Manager Wells, you have led this City in this new horizon. We were first out of the gate to work with a couple of businesses; both have been relatively successful. She guesses \$300,000 is relatively low. While she knows in Modesto, that they're still struggling to get through the process of how we're going to process applications. Stanislaus County is as well. She thinks some of the other communities are probably watching us. So, thank you; she appreciates all of his hard work and leadership.

Chairperson Smith continued that she does want to comment, Commissioner Condit, before we move on, that she respects and agree with your position that we need to be mindful of how this money is spent. She thinks we had this discussion as he has mentioned, in the past, about whether or not we should be making a statement about the use of the money and she doesn't want to make this amendment about the money. This amendment is about expanding the opportunities for these businesses so they can continue to generate the revenue. She thinks if we want to have a discussion about the use of the revenue, it may be better served at the Council level and that's where we should go, either as citizens or representatives of the Planning Commission.

Commissioner Condit interjected, that their job on the Commission is to make recommendations to the Council and he thinks making the recommendation that if we're going to continue down this marijuana road, and we're going to allow adult use, but if we're going to do this, we've got to be mindful and we've got to make the best suggestions to the Council.

Chairperson Smith remarked that she agrees with that suggested that Commissioner Condit restate his motion.

City Attorney, Nubia Goldstein expressed, one quick point of clarification for the Commission, she recommends because of the several resolutions and items that need to be approved, to split up. If you look at your agenda item, your required action on page 6, items 1 and 3 relate to the actual Development Agreement Amendments. So if there's a motion for approval of the Development Agreements consistent with CEQA Guidelines, exemptions and the recommendation for the three ordinances as one motion, and then we can take up the Zoning Ordinance Text Amendment as a separate item, if that's okay with the City Manager.

Chairperson Smith remarked, let me make sure I understand. So, number 1 is the CEQA; that's easy. Number 2 is the ZOTA; well, without number 2, you can't have number 3.

Ms. Goldstein agreed, but they're separate recommendations.

**ACTION:** It was moved by Commissioner Condit; seconded by Commissioner Johnson to recommend to the City Council approve a Zoning Ordinance Text Amendment to modify section 18.04.002 of the Ceres Municipal Code, thereby effectuating the Revised Cannabis Zoning Ordinance (Draft PC Resolution 18-07). Motion passed by the following vote:

**AYES:** Commissioners Condit, Del Nero, Johnson, Kachel, Chairperson Smith  
**NOES:** None  
**ABSENT:** None

Commissioner Condit stated that his amendment to the Development Agreements is going to be the same as the first time. The revenue that the Development Agreements generate is designated solely to Police, Fire and Code Enforcement.

Chairperson Smith stated that before she calls for a second, she asked Commissioner Condit to consider instead of being definitive about designated it to Police and Fire, that he use language such as, "and we recommend that the Council designate the revenue for Public Safety purposes."

Commissioner Condit replied that he thinks "Police, Fire, Code Enforcement" covers all.

Chairperson Smith explained that her difference in the language is saying that we "recommend" that Council designate and his language was, "designate." There's a difference.

Commissioner Condit agreed that he'll use her language when he makes the motion.

Chairperson Smith continued, being clear that the use of the term "recommend" does not commit the Council, but asks them to consider.

Commissioner Condit agreed; these are all recommendations.

Chairperson Smith stated that she knows, but in the motion; is she making a distinction here?

Mr. Wells replied that he hears her distinction, but wanted to clarify. So, she's saying to amend the Development Agreement. Normally we wouldn't put in the Development Agreement because it's an agreement between a private party and the City, and this is obligating the two and our interactions between the two. From the Developer's standpoint in this situation, they're obligated to pay the City in dollars. How that money is distributed; that's a City decision, not necessarily a Development Agreement. He's hesitant, and we can do it that way, because we've had this conversation before. But, from a legal perspective, it would be better to have it under a different avenue, rather than in the Development Agreement.

City Attorney Goldstein stated that's correct and explained if she's not mistaken that last year, when this point came up, the Action that the Commission considered was to include a recommendation as part of the Resolution; that's a recommendation to the City Council that the public benefit amount generated from the Development Agreements be

classified or spent as to particular categories. So, if that is the Commission's wish, the recommendation would be to put it that way. Although, she believes that last year when this first came up, there was a discussion as to whether or not that's something the Council...

City Manager Wells interjected, the Council did say no.

Chairperson Smith remarked they didn't want to do it. First of all, she's thoroughly and totally confused about where it goes. But beyond that, because she understands they didn't do it and understands that they have the authority and that's within their jurisdiction to determine budget, she wants to encourage them to be mindful of spending this in Public Safety, but she doesn't want to sound like the Commission is saying do this and spend it on Public Safety.

Mr. Wells stated, to clarify, and recognize Public Safety as a better framework, to use it is rather broad. When you start saying specifically, "Police, Fire, Code Enforcement," you're missing other aspects; Dispatch, other things that might be in that broad category. As a refresher, 80% of the General Fund Budget already goes to Public Safety as a general rule of thumb. That Public Safety doesn't include his time, Mr. Westbrook's time, other staff members that are working on this and making sure that these folks are staying compliant with the agreement. So, from a staff perspective, we would argue that there are costs that are born by the General Fund associated with managing these agreements that are not Public Safety. There are factors to consider. Obviously as a salaried employee, his time is his time, but he has spent a tremendous amount of time on this subject as well as the work of James and Tom to get us to this point. So, those are just factors to consider.

Chairperson Smith commented that she believes that Commissioner Condit and she had this similar discussion before, so repeat again, please Mr. Wells, the percentage of the General Fund that goes towards Public Safety.

Mr. Wells reiterated, approximately 80% of the current budget.

Chairperson Smith asked if that includes the Measure H money.

Mr. Wells explained that when you factor Measure H in, it's even a little higher. It's closer to the 83% range.

Chairperson Smith asked, so what she hears him suggesting we might want to consider is the need for this money in other areas such as, administrative staff time, quality of life issues such as parks and recreation, and things of that nature.

Mr. Wells explained from staff's perspective, the General Fund is the appropriate place for this to be put, and then Council makes the decision on the expenditure of the General Funds on the basis of the needs of the whole community across the whole spectrum. Earmarking one aspect of the revenues of a \$20 million General Fund, is better set with the Council under the framework of all of the expenditures of the City. We all have, within the departments, different needs and perspectives and it is the Council's prevue to decide what those priorities are. So that's where it generally lies and as the General Fund, we try to get those to where they best fit the organization.

Chairperson Smith inquired, the Commissioner made a motion.

Commissioner Condit remarked, no, not yet.

City Attorney Goldstein clarified that it was a discussion of a potential motion.

Mr. Wells questioned his motion in terms of what he was wanting to change; whether actually in the Resolution versus an Amendment to the D.A.

Ms. Goldstein stated, so that we can make that distinction clear for purposes of the motion, that would be good.

Commissioner Johnson asked, to get this clear, whatever amount is received from this, 80% of the General Fund goes to Fire and Police.

Mr. Wells interjected, Public Safety. We'll use that broad term as that's all; includes Code Enforcement. Generally when we speak of Public Safety, that also includes Animal Services as well. So, there's a broad spectrum of Public Safety.

Commissioner Condit stated, to make one last case, we do not have one officer per every 1,000 residents; one patrol officer. Every year, we're in a struggle to; we're in a fight for a federal grant to maintain our Fire Department. We owe it to the citizens and we owe it to the Council to make a recommendation to them that provides adequate public services and quality of life because if we're not safe in the public, which most people in Ceres don't feel safe going to Smyrna Park; they don't feel safe downtown now. We owe it to the citizens to make a good recommendation that this money, this "golden goose" that Ceres has worked so hard for, go to a good, safe community. And he thinks making the recommendation to the Council that it be spent on Public Safety Services; maybe that's the language we use, "Public Safety Services" for the City. He thinks we ought to do it. So unless there's any more discussion, he's ready to make a motion.

Chairperson Smith stated she just wanted to ask Commissioner Condit, if he thinks that the discussion we just had and it being memorialized in the minutes is a message that the Council will receive.

Commissioner Condit replied that he thinks they'll receive a recommendation. What they need is a recommendation.

**ACTION:** It was moved by Commissioner Condit; seconded by Commissioner Johnson to accept that the DA Amendments are consistent with CEQA Guidelines Section 15061 (b-3) – Review for Exemption, and Section 15301 – Existing Facilities and recommend adopting three separate ordinances that amend three development agreements for cannabis businesses between the City and Kase Manufacturing (Draft PC Resolution 18-08), Pacafi Cooperative, Inc. (Draft PC Resolution 18-09), Kase's Journey (Draft PC Resolution 18-10), with the amendment that the Planning Commission recommend to the City Council that the Public Benefit Revenues are designated to Public Safety Services for the City. Motion failed by the following vote:

**AYES:** Commissioners Condit, Johnson  
**NOES:** Commissioners Del Nero, Kachel, Chairperson Smith

ABSENT: None

Chairperson Smith stated that this does not mean that she doesn't think Public Safety isn't of significant importance, and she appreciates Commissioner Condit's efforts.

Chairperson Smith continued, that motion has failed, she will now ask if there's anyone else who would like to make a motion.

**ACTION:** It was moved by Commissioner Kachel; seconded by Commissioner Del Nero to accept that the DA Amendments are consistent with CEQA Guidelines Section 15061 (b-3) – Review for Exemption, and Section 15301 – Existing Facilities and recommend adopting three separate ordinances that amend three development agreements for cannabis businesses between the City and Kase Manufacturing (Draft PC Resolution 18-08), Pacafi Cooperative, Inc. (Draft PC Resolution 18-09), Kase's Journey (Draft PC Resolution 18-10). Motion passed by the following vote:

**AYES:** Commissioners Del Nero, Kachel, Chairperson Smith

**NOES:** Commissioners Condit, Johnson

**ABSENT:** None

**NEW BUSINESS:**

None

**PUBLIC MEETING(S):**

None

**UNFINISHED BUSINESS:**

None

**MATTERS INITIATED BY PLANNING COMMISSION AND STAFF**

None

**REPORTS:**

Director of Community Development, Tom Westbrook announced:

The General Plan EIR was out for its 45 day review period. That closed on March 26<sup>th</sup>. We received about a dozen or so comments. The consultant is preparing the Final Environmental Impact Report, which will be much more condensed because it's just responding to those comments. We are looking to hold a special Planning Commission meeting on April 30<sup>th</sup> to have the discussion and consideration of the General Plan Update and the certification of the EIR, which will be a recommendation moving forward to the City Council at one of their meetings in May. We're looking forward to advancing that project as we're nearing the end of the General Plan Update effort. Upon

conclusion of the General Plan Update, there will be a number of things that will start after that.

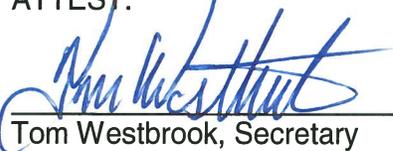
**ADJOURNMENT:**

The Commission adjourned at 7:02 p.m. to the Special Planning Commission meeting of Monday, April 30, 2018.

APPROVED:

  
\_\_\_\_\_  
Laurie Smith, Chairperson

ATTEST:

  
\_\_\_\_\_  
Tom Westbrook, Secretary