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MEMORANDUM
January 6, 2010

TO: Mayor and Town Council
FROM: Tim Wright
SUBJECT: Resolution 2592 - Personnel Manual Amendments in Light of Medical Marijuana

The purpose of this Memorandum is to provide background information on Resolution 2592.

The Town's Personnel Policy Manual ("Personnel Manual") contains a section addressing employee use of alcohol, legal drugs, and illegal drugs. Section 6.8, Substance Abuse Program. When the citizens of Arizona approved Proposition 203 (the Arizona Medical Marijuana Act, "the Act") legalizing 'medical marijuana,' amendments to Section 6.8 became necessary.¹ Resolution 2586 enacts these necessary amendments as detailed below:

1. A new definition for medical marijuana is added to Section 6.8.1.² See Section 2 of the Resolution.
2. A new subsection 6.8.2(e) is added that specifically addresses medical marijuana. See Section 3 of the Resolution. For most employees, medical marijuana is treated much like alcohol - they cannot possess, use, or be impaired by it while at work. For Commercial Driver's License (CDL) holders, workers subject to specific federal grant restrictions, and law enforcement officers, they may not possess, use, be impaired by, or even have medical marijuana or its metabolite in their body while at work.
3. Additional types of testing are allowed for all drug and/or alcohol matters. See Section 5 of the Resolution. Because of the lack of consensus about chemical levels causing impairment, it is

¹ Although the Act was passed in November of 2010, the Act provided a substantial amount of time for the Arizona Department of Health Services ("DHS") to create regulations enacting its provisions. The final DHS regulations are set to be released on March 28, 2011 and it is anticipated that DHS will begin issuing medical marijuana cards to individuals soon thereafter.

² It is important to remember that although Proposition 203 decriminalized medical marijuana under Arizona law, the possession, sale, transfer, etc. of any type of marijuana is still a felony under federal law. This incongruence creates a high level of uncertainty for employers.

MAR 17 2011 G.2*

anticipated that in some cases a Drug Recognition Expert will be needed.³

4. Prohibits employees from being involved financially, working for, or otherwise endorsing a medical marijuana dispensary. Employees are also prohibited from being medical marijuana caregivers. See Section 1 of the Resolution.
5. Other conforming changes and minor clean ups are made to Section 6.8.

If you have further questions relating to this memorandum or Resolution 2592, please call or stop by so that we can discuss those questions.

³ One of the things adding complexity to the whole medical marijuana situation is that there is not a scientific consensus of the level of marijuana (or its metabolite) in the blood that indicates universal impairment. This is in contrast to alcohol where the consensus is that everyone is impaired at over .08.