

'I would proceed with caution'

LEGALIZATION continued from front page

The session came after a meeting was held in late February at the Tulalip Casino in Washington state to discuss possible formation of a Tribal Cannabis Association that would further research, develop and advocate for the sovereign right of Indian nations and Tribes to have the same choices over marijuana use as state governments.

In addition, Colorado Democratic Rep. Jared Polis introduced a bill in the U.S. House of Representatives on Feb. 20 that would decriminalize marijuana on the federal level. One of its co-sponsors is Oregon. Rep. Earl Blumenauer.

Martin led the briefing, titled "Marijuana in Indian Country Update," by stressing that despite all of the perceived pro-marijuana momentum, the growing, possessing, manufacturing and distributing of marijuana is still illegal under federal law despite the fact that Colorado, Washington, Oregon and Alaska have legalized recreational marijuana use.

Until Congress amends the Controlled Substances Act, marijuana will continue to be illegal federally, she added.

However, that is where the black-and-white of Martin's presentation ended and gray areas started to appear.

Martin said that the Cole memo and a U.S. Department of Justice policy statement released in 2013 and 2014, respectively, established Obama administration priorities in exercising prosecutorial discretion regarding marijuana cases given the federal government's limited resources.

Martin said the eight national priorities set forth in the Cole memo involve preventing distribution to minors, combatting gang and cartel involvement, prohibiting diversion of marijuana to other states that have not legalized it, state-authorized activity being used as a

pretext for other illegal activity, violence and use of firearms in the cultivation and distribution of marijuana, public health issues, grows on public lands, and possession and use on federal property.

"The Department of Justice has not historically devoted resources for prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property," the Cole memo states. "Instead, the department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the Controlled Substances Act only when the use, possession, cultivation or distribution of marijuana has threatened to cause one of the harms identified above."

Even in states where recreational marijuana has been legalized, if there is not a "robust" state regulatory system in place, all federal action "is on the table and could be enforced," Martin said.

Retail sales of marijuana in Oregon are scheduled to begin Jan. 4, 2016, and will be regulated by the state Liquor Control Commission.

Martin said that the Cole memo and Justice Department policy statement are not an effort by the Obama administration to legalize marijuana use on the federal level, which only Congress can do, and do not provide a safe harbor legally and do not create a legal defense. The criteria, she said, also applies to enforcement in Indian Country.

"This is the beginning of a conversation with Tribes on marijuana issues," she said. "We want to continue to support Tribes that want to continue strict enforcement of marijuana laws. This is not a green light to legalize or commercialize marijuana."

Measure 91 was passed by Oregon voters in November. However, Martin said, the measure doesn't affect employment matters governed by federal law, such as Tribes ensuring a drug-free workplace to receive myriad grants. Nor does

it affect landlord-tenant matters, meaning a landlord can insist a renter not smoke or grow marijuana on a rental property.

Tribal Council Vice Chairman Jack Giffen Jr. said that enforcement priorities could change after the Obama administration leaves office in 2017.

"A different administration may take a different view," Martin agreed. "I would proceed with caution."

Giffen also asked if Tribes that decide to grow and sell marijuana might see alcohol and drug prevention grants affected on the federal level.

"I have not heard any discussion of that," Simmons said. "There will be lots of discussions in the federal granting area later this year for Tribes that decide to grow marijuana."

Umatilla Vice Chairman Leo Stewart asked about Wildhorse Casino customers who drive across the Columbia River from Washington state to Pendleton who might have marijuana in their cars.

"It is illegal on reservation land," Martin said. "There is no expectation that they can carry the state around in their car on the reservation."

However, Simmons said, the U.S. Attorney's Office would not get involved in prosecuting people for personal use. The federal government will get involved when there are bigger criminal fish to fry, such as people illegally growing and distributing marijuana on Tribal lands.

Grand Ronde Tribal Council Secretary Toby McClary delved into employment issues, such as random drug testing and what happens regarding federal grants if Tribes begin treating marijuana like alcohol.

"We know you can't drink at work, but you can drink outside of work," McClary said. "Would it be OK for employees to smoke outside of work?"

"Measure 91 doesn't change employment rules," Simmons said,

adding that he remembered reading a legal decision where an employer who required a drug-free workplace won a wrongful termination lawsuit filed by an employee who tested positive for marijuana. "We'd have to bring in other federal entities to talk about grants, but now is the time to start addressing these issues."

The Oregon Tribes Meeting attracted representatives from Grand Ronde, Umatilla, Siletz, Coquille and the Coos, Lower Umpqua and Siuslaw.

The meeting opened with a drum song performed by Tribal Council member Jon A. George and Land and Culture employees Brian Krehbiel, Kathy Cole, Jan Looking Wolf Reibach and Travis Stewart.

Other Tribal Council members who attended were Chris Mercier, Denise Harvey, Ed Pearsall and Tonya Gleason-Shepek.

Tribal employees who attended included Interim General Manager Rick George, Economic Development Director Titu Asghar, Tribal Attorney Rob Greene, Assistant General Manager Bryan Langley, Gaming Commission Executive Director Michael Boyce, Tribal Council Chief of Staff Stacia Martin, Tribal Council Administrative Assistant Shannon Simi and Assistant Tribal Attorney Kim D'Aquila.

The remainder of the meeting featured Spirit Mountain Community Fund Program Coordinator Louis King discussing the Tribe's Hatfield Fellowship and Veterans' Special Event Board Chairman Steve Bobb Sr. briefing attendees on the July Veterans Summit to be held at Uyxat Powwow Grounds.

In the afternoon, Stewart discussed the issues of climate change and hazardous materials, such as increased oil shipments from North Dakota, being transported through Oregon by rail.

"These are all important topics affecting all nine of Oregon's federally recognized Tribes," Giffen said. ■

GRAND RONDE GAMING COMMISSION POSITIONS

The Grand Ronde Gaming Commission is seeking applications to fill one commission position starting June 2015 and expiring June 2018. The Tribal Gaming Ordinance requires this position to be filled by a Tribal member.

The Grand Ronde Gaming Commission regulates all gaming-related activities associated with Spirit Mountain Casino.

Applicants must be at least 21 years of age. Commissioners may not hold elective or managerial Tribal positions, and may not be employed in or own any interest in or gamble in a gaming operation authorized by the Tribal Gaming Ordinance.

Commissioners are independent contractors and expend approximately 30-40 hours per month to fulfill their responsibilities.

The commission generally meets on the second and third Fridays of each month. Appointment is contingent upon successful completion of a background investigation.

Applications may be obtained by calling Kathy Doane at 503-879-2393 or by e-mail at Kathy.doane@grandronde.org.

Closing date is April 30, 2015, at 5 p.m. For more information about the Gaming Commission, please visit our webpage at www.grandrongegaming.org. ■



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 for application and more information