



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: February 14, 2017
Placement: Departmental
Estimated Time: 60 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Director(s) Contact Info: Mona Miyasato, County Executive Officer, 805-568-3400
Dennis Bozanich, Deputy County Executive Officer, 805-568-3400

SUBJECT: Marijuana Regulations and Impacts of Proposition 64

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

As to form:

Recommended Actions:

That the Board of Supervisors:

- a. Receive and file a presentation on impacts related to the passage of Proposition 64,
- b. Direct staff to return to the Board with an urgency ordinance to prohibit cultivation and other marijuana activities while staff develops an ordinance to prohibit or regulate marijuana, and/or;
- c. Provide direction to staff on additional information or actions for future consideration, including, but not limited to:
 - i. Developing an ordinance prohibiting certain types of State marijuana licenses in the unincorporated area of Santa Barbara County, and/or;
 - ii. Amending the County's zoning ordinances to require zoning permits for cultivation, manufacturing, retail and/or delivery of marijuana, and/or;
 - iii. Developing an ordinance for a local business licenses for certain types of State marijuana licenses in the unincorporated area of Santa Barbara County, and/or;
 - iv. Developing an ordinance to tax marijuana and/or marijuana activities within the County, subject to voter approval, and/or;
 - v. Establish and appoint members of the Board of Supervisors to a temporary, advisory ad hoc subcommittee on marijuana regulation and taxation, and/or

- vi. Provide other direction to staff as appropriate, and
- d. Find that the proposed actions are administrative activities of the County, which will not result in direct or indirect changes to the environment and are therefore not a “project” as defined for the purposes of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15378(b)(5).

Summary Text:

On January 19, 2016, the Board adopted the Medical Marijuana Regulation (Santa Barbara County Code, Chapter 35, Article X) which prohibited cultivation in the unincorporated area of Santa Barbara County except for two limited exemptions for small personal cultivation sites and legal non-conforming medical marijuana cultivation sites existing prior to January 19, 2016 and legal under State law.

On November 8, 2016, California voters approved Proposition 64 which has increased the number of requests for additional information about the status of commercial cultivation in Santa Barbara County. As soon as, January 2018, state licensing of commercial marijuana businesses in Santa Barbara County may begin. The County of Santa Barbara may want to consider prohibiting and/or establishing local licensing requirements for marijuana commercial operations. This item will provide the Board with an opportunity to consider options and direct staff on next steps.

Background:

Medical Marijuana

Between 1996 and 2015, voters and the state legislature took a series of actions to allow individuals, then collectives and cooperatives to cultivate medical marijuana.

In 2011 the County prohibited medical marijuana dispensaries in all zone districts.

In 2015 and 2016, the State of California took major steps to increase regulation of medical marijuana across the State of California. This increased regulation identified three State agencies with licensing authority for marijuana activities, including testing, dispensing, distributing, transporting, cultivating and manufacturing medical marijuana. (Attachment A) State medical marijuana regulatory authorities are also responsible for creating and enforcing relevant licensing requirements, for example, background checks, landlord approval. These medical cannabis regulations also established security, inventory, recordkeeping and enforcement protocols. The State agencies continue to develop regulations and anticipate licensing regulations in January 2018. Failure to comply with the regulations would open a person to the risk of criminal prosecution. Additionally, local government retains the ability to regulate or prohibit medical marijuana activities separately or completely.

In January 2016, the Board of Supervisors prohibited medical marijuana cultivation in all land use zones except for limited personal medical cultivation of up to 100 square feet and for legal non-conforming medical marijuana cultivation locations which required them to be in existence prior to January 19, 2016 legal under California state law and local zoning ordinances. Over the past year, ensuring compliance with the state law and Board’s actions has proven difficult, particularly for Sheriff and Planning & Development personnel, when responding to neighbor complaints or concerns. Sheriff and Planning staffs have accompanied one another on several site visits. Additionally, the Planning & Development permit counter is regularly receiving call from individuals inquiring about how they might begin

conducting marijuana related activities or from concerned neighbors about what might or might not be permitted on nearby properties. The County currently doesn't collecting any fee revenue for these legal non-conforming medical marijuana cultivation sites.

The state licensing systems for medical and non-medical marijuana contain some differences. There are currently legislative efforts to increase the consistency between the two state licensing structures.

Adult Use of Marijuana Act

On November 8, 2016, California voters approved Proposition 64, the *Adult Use of Marijuana Act*, which legally allows the adult use and limited possession of marijuana. As stated in the text of the law, the purpose of the *Adult Use of Marijuana Act* (Attachment B) is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana.

State licenses and associated regulations are anticipated to be in place no later than January 2018. There are currently 19 categories of non-medical marijuana state licenses including cultivation (13 categories), manufacturing, testing, retail, distribution, and microbusinesses. As noted above, local governments have discretion about enacting local ordinances that regulate, license, permit and/or prohibit any or all of the anticipated state licensing types. Local government has no deadline to act on local regulations under Proposition 64. Additionally, and at the discretion of the Board, land use permitting processes can be authorized, in addition to the licensing of the commercial marijuana activities, prior to commencing any commercial marijuana operation on a particular site. Proposition 64 does allow adults to grow no more than six marijuana plants per residence for personal use. Local government can prohibit outdoor personal cultivation sites but cannot prohibit indoor cultivation for personal use.

Options for Next Steps

The Board may consider directing staff to develop an urgency ordinance temporarily prohibiting commercial marijuana activities for up to twenty two months to allow time for development and consideration of comprehensive local regulations, complete environmental review or prohibition language for marijuana activities in the unincorporated area of Santa Barbara County. The temporary prohibition would assist in reducing neighborhood concerns and enforcement issues.

Additionally, the Board may consider directing staff on one or more options, analysis or follow items, including but not limited to:

- If the Board wishes to prohibit commercial marijuana activities including retail, delivery, cultivation and/or manufacturing, develop prohibition ordinance language, or
- If the Board wishes to consider allowing some commercial marijuana activities including cultivation and processing, develop amendments to the zoning ordinance to require zoning permits for cultivation and/or processing of marijuana, and/or
- If the Board wishes to consider allowing some commercial marijuana activities including cultivation and processing, develop local business licensing regulations for cultivation and/or processing of marijuana, and/or

- If the Board allows commercial marijuana activities, develop an ordinance to tax marijuana and/or marijuana activities within the County, subject to voter approval, and/or;
- Establish and appoint members of the Board of Supervisors to a temporary, advisory ad hoc subcommittee on marijuana regulation and taxation consisting solely of two Board members for a period not exceeding six months, and/or
- Provide other direction to staff as appropriate.

As stated earlier, state licensing and regulations required for commercial cannabis will be in place not later than January 2018.

Performance Measure:

Contract Renewals and Performance Outcomes:

Fiscal and Facilities Impacts:

Budgeted: See below

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

Narrative:

Planning and Development staff had included this work effort as a new project on its long-range planning work-plan, but limited in scope and funding (\$18,437 for FY 16-17.) Revenue and expenses will be determined at a later date.

Key Contract Risks:

Staffing Impacts:

Legal Positions:

FTEs:

Special Instructions:

Attachments: Attachment A – Bureau of Medical Cannabis Regulation State Licensing Authorities
Attachment B – Proposition 64 Measure Language Summary

Authored by: Dennis Bozanich, Deputy County Executive Officer, 805-568-3400

cc: