



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 1/28/2020
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NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: David Morrison, Director, Planning, Building & Environmental Servi - (707) 253-4805
SUBJECT: Workshop on Cannabis Public Outreach Program

RECOMMENDATION

Director of Planning, Building and Environmental Services (PBES) requests discussion and direction regarding public outreach on the issue of commercial cannabis.

EXECUTIVE SUMMARY

The Director of PBES, Interim Director of Library Services and Community Outreach, and County Executive Office have prepared recommendations on an outreach program to engage the public regarding the issue of commercial cannabis.

PROCEDURAL REQUIREMENTS

1. Staff report.
2. Public comment.
3. Board direction to staff on process.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?

No

County Strategic Plan pillar addressed:

Effective and Open Government - Increase transparency in government operations and empower residents.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION**History****October 9, 2015:**

Governor Brown signed into law a suite of legislation known as the Medical Marijuana Regulation and Safety Act ("MMRSA"), including Senate Bill 643 (McGuire), Assembly Bill 266 (Bonta), and Assembly Bill 243 (Wood). The legislation contains numerous provisions, including the creation of the Bureau of Medical Marijuana Regulation under the California Department of Consumer Affairs and a comprehensive dual licensing program to govern the licensing and control of all medical marijuana businesses in the state. These bills regulate medical marijuana in five distinct categories: manufacturing, dispensing, transportation, delivery, and cultivation. Most importantly for local jurisdictions, the Act contains anti-preemption language and preserves the local jurisdictions' ability to regulate or ban outright these activities. The Act established a March 1, 2016 deadline for local agencies to enact regulations for cultivation or cede permitting authority to the State.

November 3, 2015:

The Board of Supervisors directed staff to prepare an ordinance for adoption prior to the March 1 deadline that accomplished the following:

- | Continue ban on dispensaries in unincorporated areas.
- | Allow personal cultivation of medical marijuana for qualified patients and caregivers.
- | Allow the delivery of medical marijuana to unincorporated areas.

January 26, 2016:

The Board of Supervisors adopted Ordinance No. 1410, which included the following provisions:

1. Allows for the personal cultivation of medical marijuana up to 25 square feet of cultivated area per legal parcel with the following provisions:
 - | Only by a qualified patient or primary caregiver residing full-time on premises.
 - | Cultivation shall be within appropriately secured, enclosed, and ventilated structures as further defined in the ordinance.
 - | Cannot be in greenhouses or "hoop houses".
 - | Permitted only on parcels with single-family residential units and not on parcels with apartments and other multi-family dwellings.
 - | The sale of any medical marijuana grown under this ordinance is prohibited.
 - | Outdoor cultivation is prohibited.
2. Continues to ban dispensaries, and now expressly so, in Title 8 of the County Code. The purpose and intent of the definition of a "dispensary" in section 8.10.20 is to prohibit both stationary and mobile dispensaries from operating within the County, including any human-powered mobile dispensary. This definition also incorporates any potential type of dispensary delivery service hub.
3. Provides that a qualified, licensed dispensary operating in full compliance with all local and state laws from within another jurisdiction shall be able to make deliveries to qualified patients residing within Napa County. Board direction was to not expressly prohibit deliveries and no such prohibition is contemplated by

any provision of the ordinance.

4. Any cultivation not in compliance with the provisions set forth in the ordinance are declared to be a public nuisance subject to abatement and administrative penalty under existing provisions of the County

November 8, 2016:

California voters pass Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act. Proposition 64 permits adults 21 years of age and older to possess and grow limited amounts of marijuana for recreational use. The proposition does not alter the MMRSA.

April 4, 2017:

The Board of Supervisors selected Supervisors Gregory and Ramos to serve on an ad hoc committee - later named the Cannabis Roundtable - with representatives from each city and town. The goal of the Cannabis Roundtable was to learn more about the legalization of adult cannabis use, the State's regulatory framework, and how local municipalities could work together to find consistencies in developing local ordinances regulating cannabis. The Cannabis Roundtable met on May 31, July 21, August 25, and September 28. They received presentations by staff from Platinum Advisors, HdL Companies, Harborside, Sonoma County, Rural County Representatives of California (RCRC), and County staff; and toured facilities in Oakland.

November 14 and 21, 2017:

The Board of Supervisors received a report from the County representatives on the Cannabis Roundtable and directed staff to prepare a moratorium to prohibit personal cultivation and commercial cannabis activities in the unincorporated area.

December 5, 2017:

The Board of Supervisors adopted Ordinance No 1425, which established a temporary moratorium prohibiting outdoor personal cultivation and commercial cannabis activities in the unincorporated area while studying these issues.

January 16, 2018:

The Board of Supervisors adopted Ordinance No. 1426, which extended the moratorium prohibiting outdoor personal cultivation for an additional six months, and extended the moratorium prohibiting commercial cannabis activities for an additional 10 months and 15 days. The Board also discussed a draft model ordinance regarding personal cultivation and requested staff to analyze the number and location of parcels that would be affected under a variety of proposed cultivation setbacks.

January 23, 2018:

The Board of Supervisors discussed policy issues relating to outdoor cannabis cultivation, including setbacks, sensitive uses, and greenhouses. The Board directed staff to prepare a draft ordinance based on the discussion.

March 7, 2018:

The Planning Commission held a study session and provided direction to staff regarding the draft cultivation ordinance. The Commission generally concurred with the Board's goals and desires regarding a potential ordinance.

April 18, 2018:

The Planning Commission considered a draft ordinance relating to outdoor cultivation of cannabis for personal use. The Commission recommended adoption of the ordinance and forwarded it to the Board for consideration, along with the following revisions:

- I Eliminate the restriction prohibiting outdoor cannabis cultivation from being visible from neighboring parcels.

- | Add "animal facilities," including veterinary offices and kennels, to the list of sensitive uses subject to a 300-foot setback limiting outdoor cultivation to two plants.
- | Require a one-year report back to the Board and/or Planning Commission.
- | Create a Frequently Asked Questions or information sheet for public distribution to educate the public about the new law.

June 16, 2018:

The Board of Supervisors adopted Ordinance No. 1430, which extended the prohibition on the outdoor cultivation of cannabis until the earlier of one of two events: (a) the Board takes legislative action to address the issue; or (b) 10 months after January 19, 2018.

The Board of Supervisors also adopted Ordinance No. 1431 to allow for the personal cultivation of cannabis, which included the following provisions:

- | Residents can grow up to six plants total, which can be grown in any combination of indoor and/or outdoor cultivation, so long as all applicable regulations are obeyed;
- | Residents residing within 300 feet of a school or park - as defined in the ordinance - are limited to cultivating up to two of their total six plants outdoors. The remaining four plants can be grown indoors. All other residents not within this 300-foot zone can grow six plants in any combination of indoor or outdoor;
- | All personal cannabis cultivation is limited to parcels with private residences;
- | The use of volatile chemicals, generators, and pesticides and fertilizers inconsistent with labeling and official guidance is prohibited; and
- | Compliance is required with all other building, fire, and water use laws.

August 18, 2018:

The Board of Supervisors discussed the issue of allowing commercial cannabis activities. In the event that the municipalities within the County do not provide for sufficient access to recreational cannabis through the allowance of one or more recreation cannabis retailers, the Board directed staff to return to a future Board meeting with a proposed ordinance allowing a commercial cannabis retailer in the unincorporated area.

November 13, 2018:

The Board of Supervisors adopted Ordinance No. 1426, which extended the prohibition on commercial cannabis activity until the earlier of one of two events: (a) the Board takes legislative action to address the issue; or (b) one year after December 4, 2018.

July 23, 2019:

The Board of Supervisors received the Certification of the Registrar of Voters (ROV) that the petition for the Napa County Cannabis Regulation Initiative (Initiative), which would allow for commercial cannabis production, had been signed by voters not less in number than 10 percent of the entire vote cast in Napa County for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intent to circulate the initiative. The Board directed staff to prepare and present to the Board a report within 30 calendar days, pursuant to Elections Code Section 9111, and identified that issues raised by the Board and during public comment be included in the report.

August 20, 2019:

The Board of Supervisors received the reports pursuant to Elections Code Section 9111 addressing the various potential impacts of the passage of the Initiative.

August 27, 2019:

The Board of Supervisors discussed various topics related to allowing commercial cannabis activities in the

unincorporated area, including a pilot program for cultivation; inclusion in the Planning, Building, and Environmental Services (PBES) long-range work plan; the availability of public access to retail cannabis; and ensuring the continued prohibition of commercial cannabis after the expiration of the moratorium. The Board directed that staff discuss the effects of the moratorium expiration with the State and report back to the Board on options to address those effects, if any.

September 17, 2019:

The Board of Supervisors directed staff to: (1) Prepare an ordinance explicitly prohibiting the commercial cultivation, manufacturing, and/or retail sale of cannabis and other commercial cannabis uses in the unincorporated area; and (2) Hold a series of public outreach meetings beginning in January 2020, to provide information and to hear directly from the public their opinions regarding commercial cannabis activities.

October 15, 2019:

The Board of Supervisors adopted Ordinance No. 1436 to prohibit all commercial cannabis activities within the unincorporated area, except for the legal licensed delivery and/or transportation of cannabis on public roads.

Public Outreach

In accordance with the direction provided by the Board on September 17, 2019, the PBES Director, Interim Director of Library Services and Community Outreach, and County Executive Office has met and developed recommendations regarding a public outreach campaign to address commercial cannabis activities, as follows:

1. Hold three public workshops to provide information regarding commercial cannabis activities and how cannabis production related issues have been addressed in other California jurisdictions. Staff recommends that one workshop be held in St. Helena, with the other two workshops held in Napa. One of the workshops held in Napa would be for Spanish speaking residents. All three workshops would be tentatively scheduled between March 25 and 29, 2020. Each workshop would include a panel of speakers who have expertise and knowledge of how commercial cannabis has been implemented throughout California. The proposed speakers include: Paul Smith and Arthur Wylene from Rural County Representatives of California (RCRC); Cara Martinson from California State Association of Counties (CSAC); and Laura Goddeeris from International City/County Management Association (ICMA). All speakers have indicated their availability during the last week of March.
2. Following the three workshops, staff recommends that the County contract with a polling firm to conduct a professional survey of County residents that would provide a detailed and quantifiable summary of public opinion about commercial cannabis activities. The goal would be to obtain accurate and defensible data that relies upon a meaningful representation of the people who live in Napa County.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Leigh Sharp