



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: County Executive Office
Department No.: 012
For Agenda Of: March 17, 2020
Placement: Departmental
Estimated Time: 45 Minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department: Mona Miyasato, County Executive Officer
Director(s): Barney Melekian, Assistant County Executive Officer
SUBJECT: Update on Cannabis Compliance, Enforcement and Taxation – Second Quarter FY2019-20; Approval of MOU with California Department of Food and Agriculture for Participation in a Track-and-Trace Pilot Program

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Risk management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Receive an update on the status of cannabis tax collection, land use permitting, business licensing, State licensing, and enforcement;
- b) Approve and authorize the County Executive Officer to execute a Memorandum of Understanding (MOU) with the California Department of Food and Agriculture (CDFA), etc. to establish a pilot program whereby the County will be provided access to the State's Track-and-Trace data for up to 250 State licenses located in the unincorporated area of the County; and
- c) Find that the proposed actions are administrative activities of the County, which will not result in direct or indirect changes to the environment and therefore are 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:

This item provides the Board and public an update on the second quarter of fiscal year 2019-2020 (from November 1, 2019 to December 31, 2019.) This report includes data on the implementation of the

County’s cannabis regulations, a reporting of second quarter tax receipts, land use permitting, business license activity, State licensing activity, enforcement, and objectives for the next quarters. The reporting dates for the quarter has been changed to bring these dates into alignment with the fiscal quarters.

In summary, during the second-quarter cannabis program efforts, the County collected \$2.0 million in gross receipts tax paid by 43 operators. One hundred eighty-four applications have been submitted for land use entitlements and 18 land use entitlements have been issued. State data shows that operators held 964 State Provisional Licenses and 193 State Annual Licenses in Santa Barbara County. Thirty-six operators submitted applications to obtain 58 business licenses of which 10 have been issued during this reporting period. The County completed eight enforcement actions against illegal cannabis operators: 100 plants were eradicated with an estimated street value of \$20,000, an additional 74 pounds of processed product was seized worth an estimated \$59,200 and four arrests were made.

Background:

In response to voter approval of Proposition 64 (Prop 64), the Adult-use of Marijuana Act (AUMA), which legalized the use of cannabis for adult-use and allowed for local control of related cannabis land uses, the Board established the County’s cannabis regulatory framework. Staff continues to execute the Board’s direction in all cannabis program segments, including tax collection, land use permitting, business licensing, State licensing, and enforcement, all of which is reported on below in greater detail.

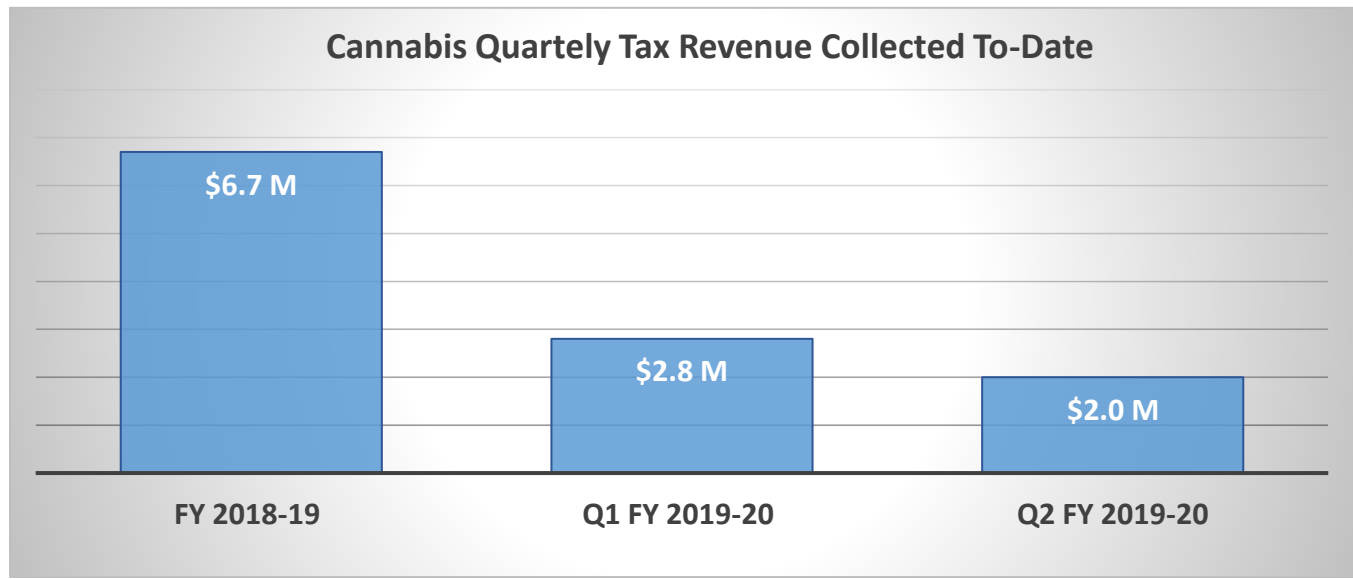
Cannabis Taxes

In the second quarter reporting period of fiscal year 2019-2020 (taxes collected as of January 31, 2020 for the period October 1 to December 31, 2019), the Treasurer-Tax Collector collected \$2.0 million from cannabis operators holding State licenses. This represents a 13% increase in the tax amount collected from the same quarter last fiscal year. The table and chart below provide operator reporting statistics and tax revenue data by reporting period, respectively.

	Tax Revenue Received	Operators Reporting Gross Receipts	Operators Reporting Zero Gross Receipts*	Operators that Did Not Report	Operator Totals
FY18-19 Total	\$6.7M				
FY19-20 Q1 Tax Data	\$2.8M	34	34	22	90
FY19-20 Q2 Tax Data	\$2.0M	43	48	15	106
FYTD 19-20 Total	\$4.8M				

* The reasons that operators report zero gross receipts are varied. Outdoor cultivation sites are often dormant during this quarter. Those operators who operate both nurseries and cultivation sites transfer their plants internally within the operation. They are required to report the activity, but it does not constitute a sale. Thus, their nursery operations would report zero gross receipts.

With respect to those operators who fail to file the required quarterly reports, the CEO’s office coordinates with the Treasurer/Tax Collector and is now taking enforcement action against those operators who fail to file the required reports.

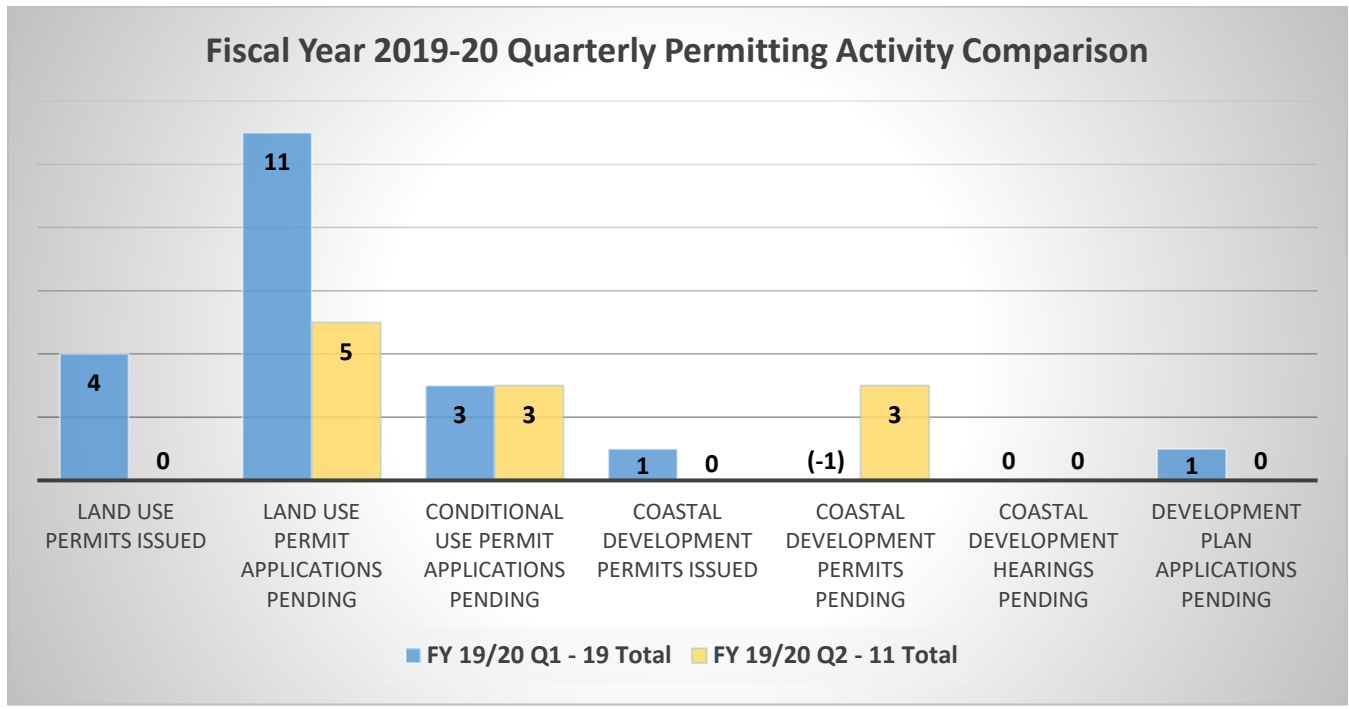


Cannabis Compliance: Land Use Entitlement Permits

The table below indicates the number of land use entitlement permit applications that have been submitted to the Planning and Development department for cannabis-related operations. Out of the 184 applications that have been submitted to-date, 156 applications are still pending final action and are in various stages of processing. These stages include: review of the application material to determine that the proposal meets code requirements, issuance of correction letters to entities with application deficiencies or that are missing information, wait-time for resubmittal of application materials, or review of applications for a final determination by authorized staff.

Land Use Permitting Status	FY 2019-20 Q1 New	FY 2019-20 Q2 New	<u>Program Totals</u> Through the first two quarters of the last fiscal year
Land Use Permits Issued	4	0	15
Land Use Permit Applications Pending	11	5	72
Conditional Use Permit Applications Pending	3	3	33
Coastal Development Permits Issued	1	0	3
Coastal Development Permits Pending	1	3	31
Coastal Development Hearings Pending	0	0	7
Development Plan Applications Pending	1	0	23
Totals	19	11	184

The chart below provides a comparison of permitting volume over the first two quarters of the current fiscal year.



Two cultivation acreage caps were adopted by the Board in the Carpinteria Agricultural Overlay District (capped at 186 acres) and the remaining unincorporated area (capped at 1,575 acres.) The table below shows the amount of permitted acreage compared to the caps.

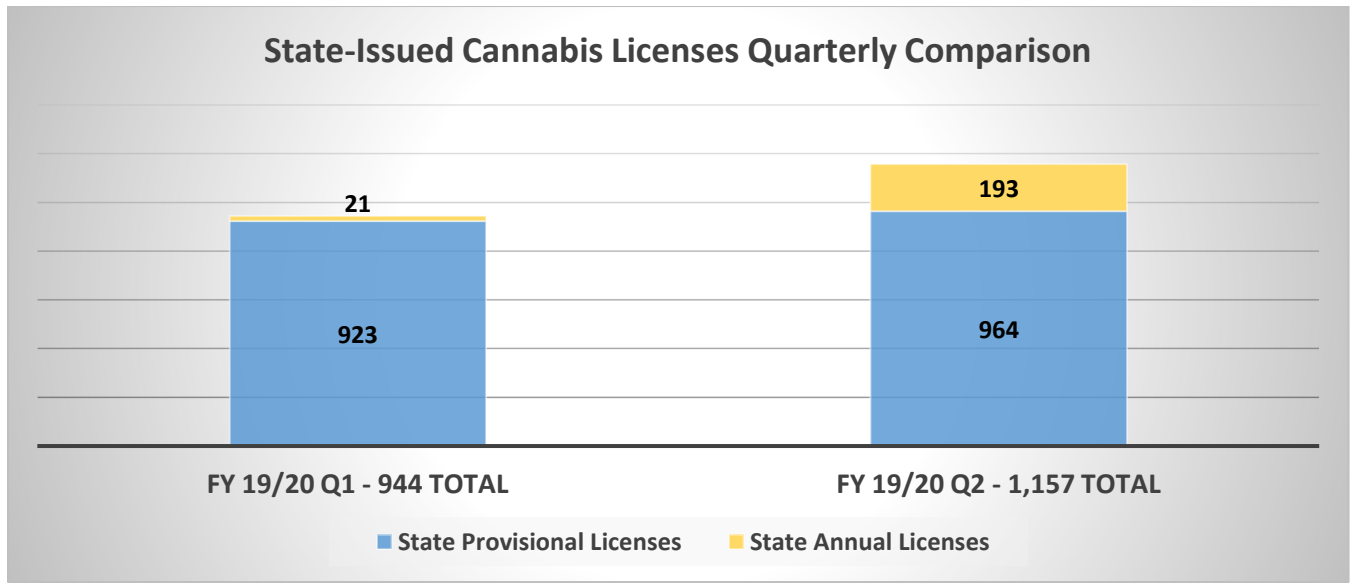
	Proposed Permit Acreage	Acreage Cap	Issued Permit Acreage
Carpinteria Ag Overlay	204	186	22
Remaining Unincorporated Area (excludes Carp Overlay)	2,369	1,575	221

Per Board direction, the Planning and Development department has held three public hearings (January 22, February 5, and March 4, 2020), with a fourth pending on March 25, 2020, in a workshop-style format with the Planning Commission to discuss proposed ordinance amendments to the Cannabis Regulations found in Chapter 35. Planning staff will be available to discuss the Planning Commission’s direction on potential amendments to the Cannabis Regulations.

State Provisional and Annual Licenses

Operators have obtained State-issued licenses, either Provisional or Annual, from the CDFA for cultivation and nursery. State-issued license data is provided below. As operators complete the County’s permitting and licensing processes, they become eligible to apply for State Annual licenses, which is the

ultimate goal for all operators. Going forward, staff expects to see an increase in the quantity of State-issued Annual licenses and a gradual decrease in Provisional licenses, as operators deemed to be legal nonconforming progress through the local permitting and licensing processes. All State cannabis licenses, Provisional or Annual, require the County Executive Office’s approval, prior to issuance. Once issued, they are renewed automatically unless the county formally objects.



CDFA Track-and-Trace Pilot Program

To ensure compliance of the cannabis regulatory program, the County relied on the State’s assurances that the Track-and-Trace database would be operative and accessible to local jurisdictions. While cannabis operators are now required to use the system, to date, the State has not provided access to local jurisdictions. Recently, CDFA has developed a pilot program for a small number of counties to gain access to the Track-and-Trace database. Staff is recommending that the Board approve a memorandum of understanding (MOU) with CDFA for the County to take part in the pilot program along with Monterey and Yolo counties. This pilot program will provide the County with access to the inventory records associated with 250 State licenses located in this County. Gaining access to Track-and-Trace data is critical in order to initiate a Board-directed tax compliance audit, as well as performing compliance and enforcement activities. The Recommended Action (B) requests approval of the MOU and authorization for the County Executive Officer to execute the MOU with CDFA.

Cannabis Compliance: Business Licensing

Through the second quarter reporting period, 36 unique operators submitted applications to obtain 58 cannabis business licenses. Many applicants are taking advantage of the Board’s ordinance amendment to allow for concurrent processing of a business license application if they have already submitted a permit application that has been accepted for processing by Planning and Development. However, a significant number of business license applications are pending due to: 1) applicants making changes to their permit application project description which impacts the documentation submitted as part of the business license application and 2) the applicant has not yet been issued a land use entitlement. The table below provides a detailed status update of cannabis business license applications submitted through December 31, 2019.

	Business Licenses Issued	Business Licenses Pending	Business Licenses Applied For
Cultivator	6	28	34
Nursery	3	14	17
Manufacturer	0	1	1
Retailer Non-Storefront	1	1	2
Distributor	0	4	4
Totals	10	48	58

Cannabis Enforcement

In the second quarter reporting period, the tempo of large-scale enforcement operations conducted by the Sheriff team slowed. This change is partly the result of seasonality and cultivation cycles, and partly due to the scope and complexity of investigative assignments given to the Sheriff's team. The Sheriff's office responds to all complaints from residents concerning alleged violations with the goal of:

- 1) Reassuring residents that their concerns are being reviewed; and
- 2) Identifying those operations who require further investigation.

Additionally, the Sheriff team has taken advantage of this slowdown in enforcement activity to attend classes relating to newly identified trends, such as advanced Butane Hash Oil (BHO) laboratory school, asset forfeiture, and various other cannabis-related seminars. Shown below is a summary of enforcement actions conducted to-date by the Sheriff team.

	FY 2018-19 Q1 & Q2 Totals	FY 2019-20 Q1	FY 2019-20 Q2
# of Enforcement Actions	22	12	8
# Live Plants Confiscated	474,171	16,684	100
Live Plant \$\$\$	\$96M	\$4.2M	\$20,000
Dried Product Confiscated (lbs)	-	1,157	74
Dried Product \$\$\$	\$0	\$1.2M	\$59,200

During the second quarter, the Planning and Development department opened six new cannabis enforcement cases (one in the South County and five in the North County) and three cases were closed. During this period, the Department responded to 75 odor complaints, 66 of which were in the Carpinteria area. Enforcement operations are primarily complaint-driven. Staff is pursuing various options to help in identifying the specific source of odor violations.

Emerging Issues

1. Continue to work to better align the land use permitting process and the business license process.
2. Develop a more refined methodology for moving operators who have demonstrated a commitment for compliance through the permitting and licensing process. This includes working more closely with the Planning Commission.
3. Where appropriate, review those operations who do not comply with County regulations to determine whether they should retain their County letter of authorization given in support of the state provisional license.

Objectives for the Upcoming Quarters

1. Implement the retail storefront license selection process.
2. Review state licenses that are up for renewal to determine suitability for renewal using four objective criteria:
 - a. Whether the applicant is making appropriate progress through the land-use permit process.
 - b. Whether the applicant has filed quarterly tax reports as required.
 - c. Whether the applicant has been the subject of documented community complaints regarding fraudulent affidavits.
 - d. Whether the applicant has been the subject of enforcement actions in response to violations of law and/or permitting.
3. Participate in a pilot program with the CDFA to access Track and Trace data for up to 250 State-issued, cannabis licenses in the County.

Fiscal and Facilities Impacts:

Budgeted: Yes

Attachments:

Track-and-Trace Pilot Program MOU with the CDFA

Authored by:

Steven Yee, Fiscal & Policy Analyst, with review and support from Planning & Development, Sheriff, and Treasurer-Tax Collector.