



**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: December 15, 2020
Placement: Departmental
Estimated Time: 45 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Director
Mona Miyasato, County Executive Officer
Barney Melekian, Assistant County Executive Officer

SUBJECT: Update on Cannabis Compliance, Enforcement and Taxation – First Quarter FY 2020-21

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) Direct the County Executive Office in concert with the Treasurer-Tax Collectors Office to work with KPMG to review the cannabis tax revenue cycle and pursuant to that review, evaluate appropriate staffing, pursuant to emerging issues #5 and #6 contained in this report;
- 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 first quarter of fiscal year 2020-21 (from July 1, 2020 to September 30, 2020.) This report includes data on the implementation of the County’s cannabis regulations, a reporting of first quarter tax receipts, land use permitting, business license activity, State licensing activity, enforcement, and objectives for the next quarters.

In summary, during the first quarter cannabis program efforts, the County collected \$4.2 million in gross receipts tax paid by 54 operators. To date, 209 applications have been submitted for land use entitlements and 25 land use entitlements have been issued. State data shows that operators held 1,063 State Provisional Licenses and 227 State Annual Licenses in Santa Barbara County. Forty-seven operators submitted applications to obtain 80 business licenses, of which 18 have been issued to date. The County completed five enforcement actions against cannabis operators: 7,220 plants were eradicated, 250 pounds of dried cannabis and 20 pounds of other cannabis product were confiscated totaling an estimated street value of \$3.9 million, in addition to four arrests made.

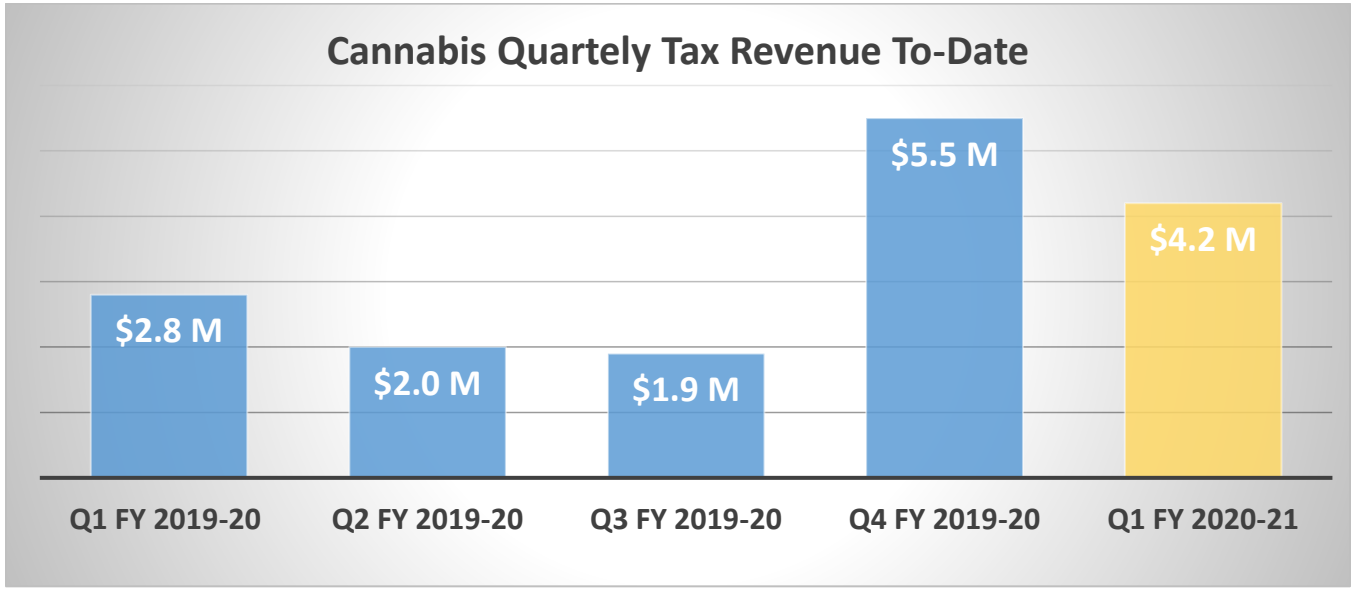
Background: In response to voter approval of Proposition 64 (Prop 64), the Adult Use of Marijuana Act (AUMA), which legalized the use of cannabis for adult-use and allowed for local control of related cannabis land uses, the Board established the County’s cannabis regulatory framework. Staff continues 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 first quarter reporting period of fiscal year 2020-21 (taxes collected as of October 31, 2020 for the period July 1 to September 30, 2020), the Treasurer-Tax Collector collected \$4.2 million from cannabis operators holding State licenses. This represents a 50% increase in the tax amount collected from the same quarter of the 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
FY19-20 Q1 Tax Data	\$2.8M	34	34	22	90
FY19-20 Total	\$12.2M				
FY20-21 Q1 Tax Data	\$4.2M	54	38	29	121

*The reasons that operators report zero gross receipts are varied. 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 in taking appropriate action against those operators.



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 to date. Out of the 209 applications that have been submitted to-date, 184 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 Entitlement Status	FY19-20 Q1	<u>FY20-21 Q1 (New)</u>	<u>Cumulative Totals thru FY20-21 Q1</u>
Land Use Permits Issued	4	4	21
Land Use Permit Applications Pending	11	3	82
Conditional Use Permit Applications Pending	3	0	35
Coastal Development Permits Issued	1	0	4
Coastal Development Permits Pending	1	3	36
Coastal Development Hearings Pending	0	0	7
Development Plan Applications Pending	1	0	24
Totals	21	10	209

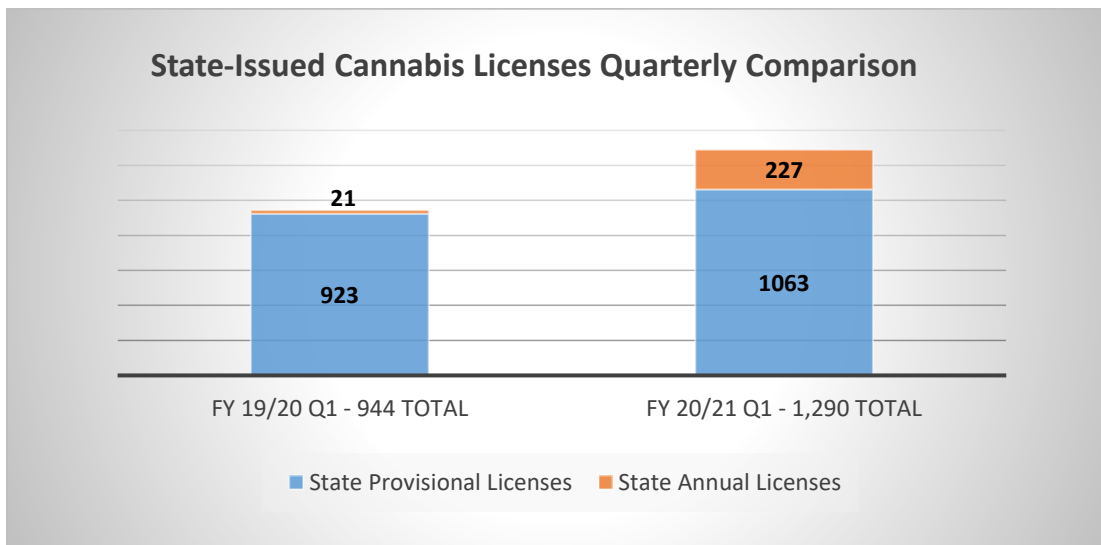
Acreage Caps

Two cultivation acreage caps were adopted by the Board: 1) in the Carpinteria Agricultural Overlay District (capped at 186 acres), and 2) the remaining unincorporated area (capped at 1,575 acres.) The table below shows the amount of proposed and permitted acreage compared to the caps.

	Acreage Cap	Total Proposed Permit Acreage	Issued Permit Acreage thru FY 20-21 Q1
Carpinteria Ag Overlay	186	234	27
Remaining Unincorporated Area (excludes Carp Overlay)	1,575	2,743	316

Cannabis Compliance: State Provisional and Annual Licenses

Operators have obtained State-issued licenses, either Provisional or Annual, from the California Department of Food & Agriculture’s CalCannabis division (CDFA) and the Bureau of Cannabis Control (BCC). 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. All State cannabis licenses, Provisional or Annual, are required to be sent to the County Executive Office for review before State approval and license issuance. Once issued, licenses are automatically renewed, unless the County formally objects.



CDFA’s Education and Outreach Campaign

In September, the CDFA launched a statewide public education and outreach campaign, “This is California Cannabis”, designed to promote the state’s legal cannabis cultivation market and highlight the support and guidance the CDFA provides to help cannabis growers secure and maintain their legal

cultivation license. This campaign celebrates the passion and hard work of licensed cannabis growers and highlights how operators, local jurisdictions, and the state are working together to protect and promote the health, safety and quality of the industry. "This is California Cannabis" will feature comprehensive outreach and education efforts, including community events and workshops to highlight the technical assistance and support that is available year-round to licensed growers and new applicants seeking commercial cannabis cultivation licensure. Additional information about the campaign can be found at the following link: growwithCA.com

Cannabis Compliance: County Business Licensing

Through the first quarter reporting period, 47 unique operators submitted applications to obtain 80 County cannabis business licenses. To date, 18 business licenses have been issued to 11 operators that have been deemed to be compliant with the County Code. Many applicants continue to take advantage of the Board’s ordinance amendment allowing 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 update of cannabis business license applications that have been submitted.

	Business Licenses Issued thru FY19-20 Q1	Business Licenses Issued thru <u>FY20-21 Q1</u>	Business Licenses Pending thru <u>FY20-21 Q1</u>	Total Applications Rec’d thru <u>FY20-21 Q1</u>
Cultivator	3	10	36	46
Nursery	1	7	17	24
Manufacturer	0	0	1	1
Retail Non-Storefront	1	1	1	2
Distributor	0	0	7	7
Totals	5	18	62	80

In addition to the Business Licensing Team’s efforts processing first-time applications, applicants that have been issued a business license from the County are required to submit a renewal application annually to determine applicant’s continued compliance with County Code. Through the first quarter, the Business Licensing Team has reviewed and approved the issuance of two renewal licenses to one operator, and is in the process of reviewing renewal applications for seven additional licenses held by five operators.

Retail Storefront Selection Process

The merit-based retail storefront application was made available in late-September. The application submittal period commenced on November 2, 2020 and concluded on Monday, November 9, 2020. As of the authoring of this letter, the County Executive Office has completed their initial review for completeness of the applications received. Applications that have been deemed complete have been forwarded to the Planning and Development Department for a preliminary zoning review. Complete applications that successfully pass Planning and Development’s preliminary zoning review will be considered accepted applications and will move forward in the selection process. A list of all accepted applications will be posted to the County’s cannabis website.

All accepted applications will then be routed to the County’s Cannabis Business Licensing Team and HdL, a third-party evaluator, for review and scoring of the Business Operations Proposal component of each accepted application. In this phase of review and scoring, applicants that achieve an aggregate score of 85% or higher, will advance to the final phase of review, scoring, and forced ranking by an Internal Selection Committee, based on the Neighborhood Compatibility Plan scoring criteria. Staff anticipates completion of the overall selection process by early spring 2021, at which time the highest-ranked applicant in each community plan area will be identified.

Cannabis Enforcement

In the first quarter reporting period, the Sheriff’s cannabis enforcement team conducted several investigations and executed five search warrants related to the illegal cultivation and sales of unlicensed cannabis and cannabis products. The majority of these operations were conducted in the North County, while one was conducted just west of Montecito in the South County. Overall, the Sheriff’s cannabis enforcement team is beginning to see the positive results of a robust enforcement program in place now for over two years, which is contributing to the County’s goal of compliance and deterrence. It appears the larger, illegal operations are being discouraged, as the large grows resulting from fraudulent and unlicensed cannabis activities continue to wane. However, work remains to address the smaller scale cannabis grows and the Sheriff’s enforcement team will continue their focused approach in deterring black market operations, which ultimately impact the legal market and consumer safety.

	FY19-20 Q1	FY 2019-20 Totals	<u>FY20-21 Q1</u> (New)
# of Enforcement Actions	12	32	5
# Live Plants Confiscated	16,684	19,884	7,220
Live Plant Value \$\$	\$4.2M	\$5.0M	\$3.6M
Dried Product Confiscated (lbs.)	1,157	8,492	250
Dried Product Value \$\$	\$1.2M	\$8M	\$250K

In addition to the Sheriff team's efforts, the Agricultural Commissioner's Office remains involved in carrying out compliance and enforcement activities. In the first quarter, the Agricultural Commissioner's Office received a complaint regarding pesticide use violations at a cannabis operation in Los Alamos. Worker & Safety violations were found in addition to the pesticide use violations. While the investigation remains ongoing, the operator is working with the Agricultural Commissioner's Office to correct the problems and move towards compliance with these violations.

The Planning and Development Department opened eleven new cannabis enforcement cases; five in the South County and six in the North County, and no cases were closed. During this period the Department responded to a total of 130 cannabis complaints, of which eight were related to cannabis odor in the North County, seven related to unpermitted cannabis cultivation in the North County, one was a cannabis fencing complaint in the Carpinteria area, two were related to cannabis operations, and 112 were for cannabis odor complaints in the Carpinteria area. Almost all odor complaints in the Carpinteria area originate from unpermitted, nonconforming grows. Where known, the Planning and Development compliance team contacts the grower that is likely responsible for generating the odor to question them on their operations at the time, and works with them to ensure that corrective actions are taken to eliminate any odor. For permitted grows, a complaint handling process has been prescribed in the Coastal Zoning Ordinance whereby the grower must respond to the complaint within 24 hours.

It should be noted that there has been progress in the development of odor abatement plans that have been accepted and supported by the Coalition for Responsible Cannabis. These include the deployment of technological approaches such as the use of carbon scrubbers in greenhouses and the creation of a mixing chamber within greenhouses where odor control products such as Ecosorb can be mixed with cannabis terpenes before the air is vented from the greenhouse. These approaches are designed to reduce odors before they leave the greenhouse. Some growers are also using equipment to monitor wind and detect terpenes so they can narrow down the exact source of the odors. It is encouraging to see that the growers and the coalition have been able to resolve issues cooperatively.

KPMG Recommendations and Implementation

In October 2020, staff presented a report to the Board addressing an operations and performance review of the cannabis permitting and licensing processes conducted by consultant KPMG. The purpose of the review was to identify areas where service delivery, efficiency, and effectiveness could be improved, relating to cannabis permitting and licensing. As a result of this review, the following six process improvement recommendations were identified:

- The CEO's office and P&D should work together to ensure the permitting software, Accela, and workflows are complementary;
- Expand the existing Subdivision Development Review Committee's function and membership to ensure all cannabis applications get a thorough review from all reviewing departments early in the process;
- Encourage simultaneous review of use permits and business licenses;
- Improve the application review process for use permits;
- Strengthen business license fee procedures; and
- Modify the cannabis-based website (landing page) to provide a clearer path for applicants.

Implementation of KPMG's recommendations is currently underway as staff from the County Executive Office and Planning and Develop have begun strategizing on how to address the recommendations that are discrete to each department, as well as the shared objectives where collaboration between departments is necessary.

Emerging Issues

1. Continue to work to better align the land use permitting process and the business license process.
2. As part of the process to encourage and incentivize operators that have submitted land use entitlement applications to take advantage of concurrent processing, the CEO's Office and P&D are working on a methodology to standardize plan approval and acceptance.
3. Where appropriate, review operator's compliance with County regulations to determine whether they should retain their County letter of authorization given in support of the state provisional license.
4. Encourage operators to submit business license applications through the Accela public facing portal – 11 applications have been submitted via Accela to date.
5. In concert with the Treasurer-Tax Collector's Office, work with KPMG to complete a review of the County's cannabis tax revenue cycle and assess their recommendations regarding the delineation of the roles and responsibilities between the County Executive and Treasurer-Tax Collector's offices and the County's outside consultants.
6. Subject to the potential recommendations contained in KPMG's review noted above in item #5, work with Human Resources and the Treasurer-Tax Collector's office to evaluate the appropriate staffing to support an optimized revenue cycle/process.

Objectives for the Upcoming Quarters

1. Complete the retail storefront license selection process.
2. Implement the KPMG recommendations relating to their assessment of the County's cannabis permitting and business licensing processes.
3. Phase-out the 12 cultivation operations that are located within EDRNs per the recently adopted LUDC ordinance amendment.
4. Continue the Business Licensing process improvement project to identify bottlenecks, inefficiencies, and redundancies in an effort to streamline the licensing process.
5. Commence the tax audit process utilizing consultant HdL.

Fiscal and Facilities Impacts:

Budgeted: Yes

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