



**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: May 19, 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 – Third Quarter FY2019-20**

County Counsel Concurrence

As to form: Yes

Risk Management:

As to form: Yes

Auditor-Controller Concurrence

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) 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 third quarter of fiscal year 2019-2020 (from January 1, 2020 to March 31, 2020.) This report includes data on the implementation of the County’s cannabis regulations, a reporting of third quarter tax receipts, land use permitting, business license activity, State licensing activity, enforcement, and objectives for the next quarters.

In summary, during the third quarter cannabis program efforts, the County collected \$1.9 million in gross receipts tax paid by 46 operators. To-date, one hundred eighty-nine applications have been submitted for land use entitlements and 20 land use entitlements have been issued. State data shows that operators held 990 State Provisional Licenses and 221 State Annual Licenses in Santa Barbara County.

Forty-six operators submitted applications to obtain 72 business licenses of which 10 have been issued to-date. The County completed five enforcement actions against illegal cannabis operators: thirty-one pounds of dried cannabis and 1,800 pounds of cannabis extract was confiscated totaling an estimated street value of \$2 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

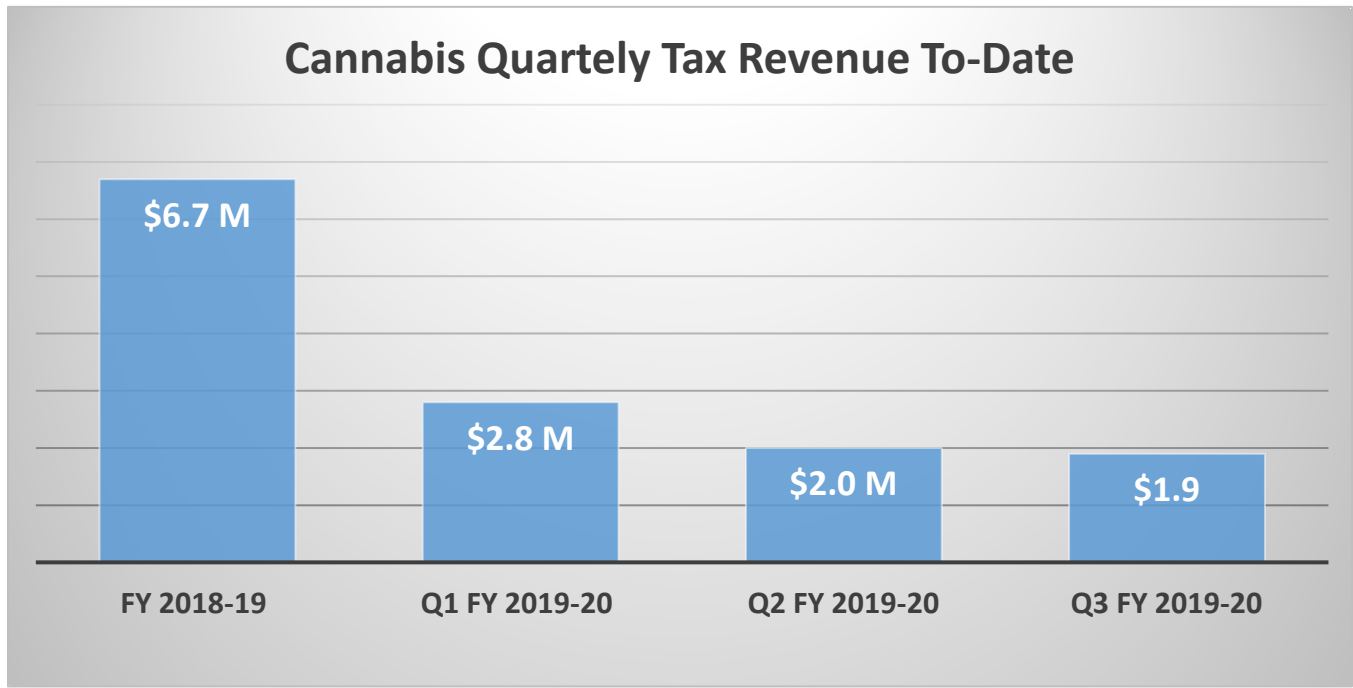
In the third quarter reporting period of fiscal year 2019-2020 (taxes collected as of April 30, 2020 for the period January 1 to March 31, 2020), the Treasurer-Tax Collector collected \$1.9 million from cannabis operators holding State licenses. This represents a 43% increase in the tax amount collected 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
FY19-20 Q3 Tax Data	*\$1.9M	46	44	23	113
FYTD 19-20 Total	\$6.7M				

* Tax revenues of approximately \$1.9M reflect revenues that were received and posted in the County’s Financial Information Network (FIN) by the Treasurer-Tax Collector in the third quarter tax collection period of April. However, an additional \$775K of revenues was timely received, mostly via mailed-in payments, and was posted to the May financial reporting period, bringing the associated third quarter revenues collected to \$2.6M. The additional \$775K will be included as part of the fourth quarter report to the Board.

**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 taking enforcement action against those operators who fail to file the required reports.



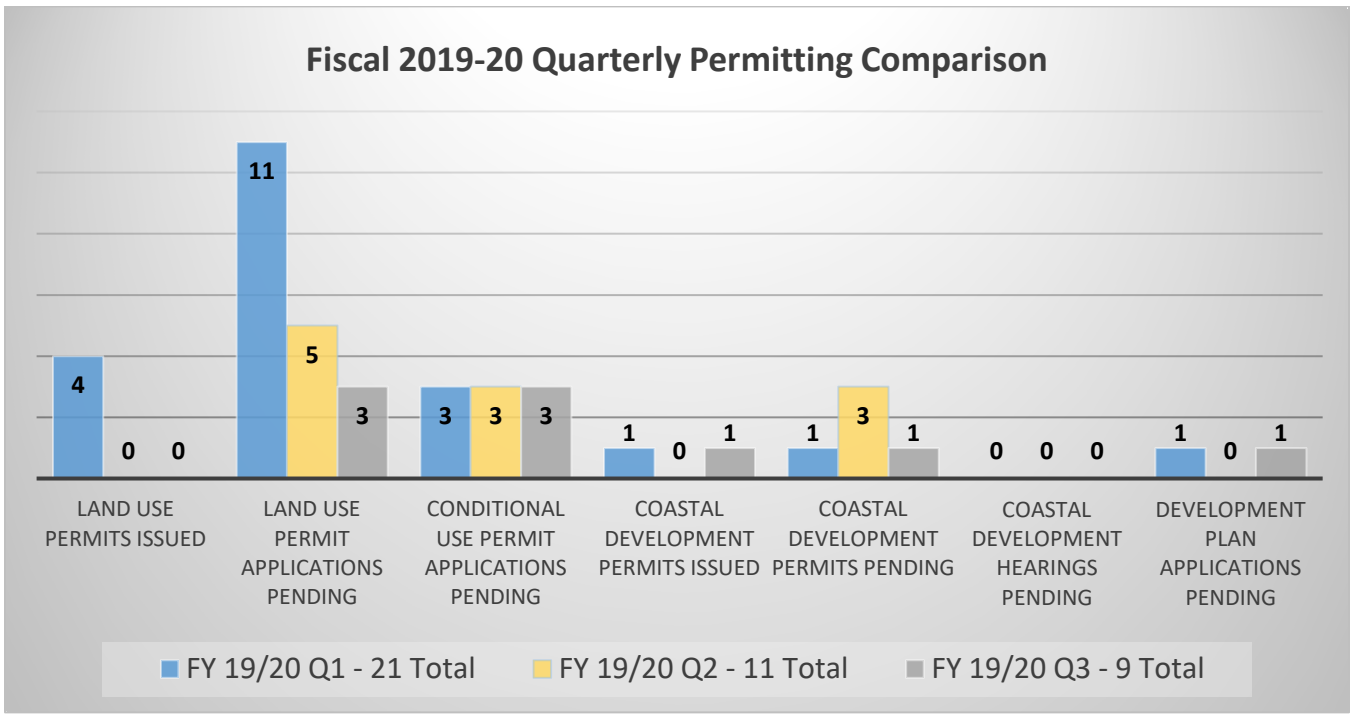
Cannabis Compliance: Land Use Entitlement Permits

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 189 applications that have been submitted to-date, 169 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	FY19-20 Q1	FY19-20 Q2	FY19-20 Q3 (New)	Program Cumulative Totals To-Date
Land Use Permits Issued	4	0	0	16
Land Use Permit Applications Pending	11	5	3	72
Conditional Use Permit Applications Pending	3	3	3	35
Coastal Development Permits Issued	1	0	1	4
Coastal Development Permits Pending	1	3	1	31
Coastal Development Hearings Pending	0	0	0	7

Development Plan Applications Pending	1	0	1	24
Totals	21	11	9	189

The chart below provides a comparison of permitting volume over the first three 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	213	186	22
Remaining Unincorporated Area (excludes Carp Overlay)	2,452	1,575	221

At the January 22, 2020 Planning Commission Meeting, the Agricultural Commissioner presented a summary of the Cannabis & Traditional Agriculture stakeholder working group which focused on Pest Control Challenges and Compatibility. The working group shared ideas and created voluntary guidelines which were identified in two categories for co-existence between agriculture and neighboring cannabis cultivators. This information was consolidated into two resource documents:

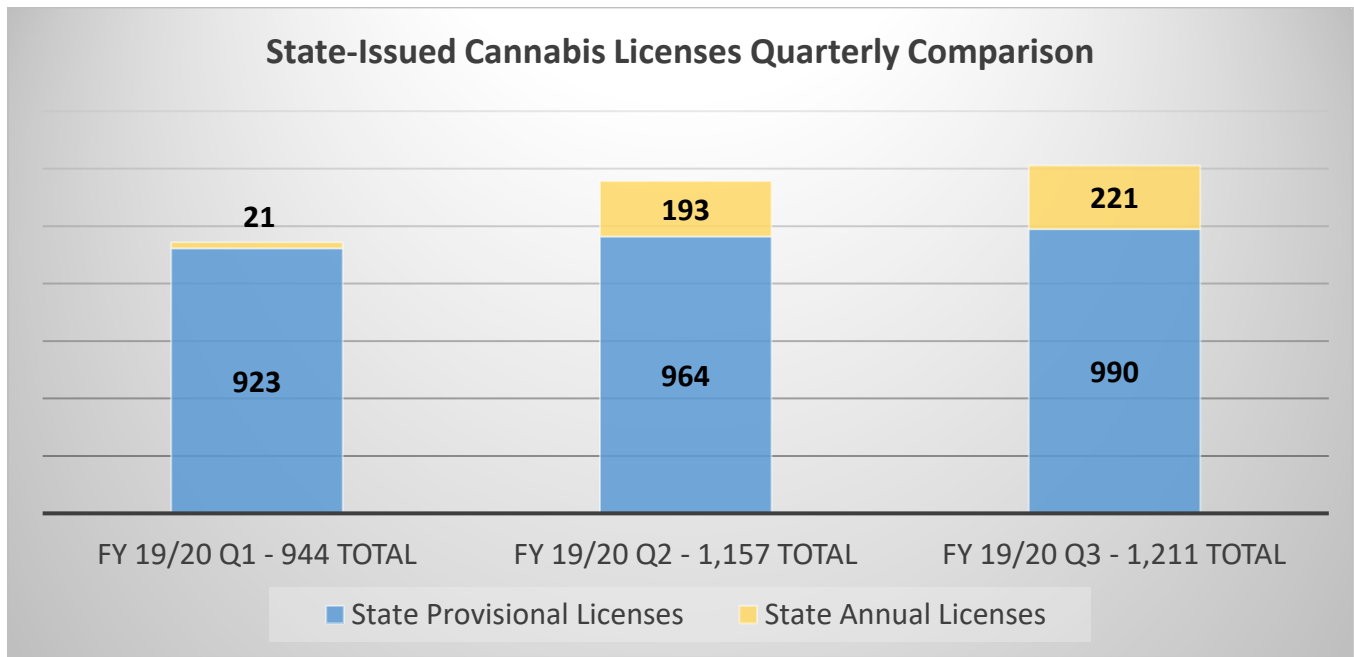
- 1) Best Practices for pesticide applications.
- 2) Who are my Neighbors?

These resources may be obtained at the Agricultural Commissioner/Weights & Measures Department website. <http://countyofsb.org/agcomm/cannabis1.sbc>

Looking forward, on June 2, 2020, the Planning & Development Department is scheduled to present Cannabis Land Use Ordinance Amendments to the Board, as recommended by the Planning Commission. These ordinance amendments are intended to provide the Planning Commission and Board the latitude for added discretion in reviewing and approving land use entitlements.

State Provisional and Annual Licenses

Operators have obtained State-issued licenses, either Provisional or Annual, from the California Department of Food & Agriculture (CDFA). 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, are required to be sent to the County Executive Office for review before State approval and issuance. Once issued, licenses are renewed, unless the county formally objects.



In the third quarter, the CEO’s Office identified four operators holding State licenses who were subject to having their letters of authorization revoked. The reasons for the proposed revocations included law enforcement operations involving criminal activity, failure to file required tax reports, neighborhood complaints regarding odor and evidence of falsely submitted affidavits. Notices of intent to revoke the letter of authorization were sent to the operators. Three of the four operators met with the CEO’s office.

Two of the complaints were resolved by appropriate filing of tax documents, meetings with neighbors to resolve issues and, in one case, agreement to surrender all licenses to operate. The fourth operator initially requested a hearing, but subsequently surrendered all of their State licenses.

Cannabis Compliance: Business Licensing

Through the third quarter reporting period, 46 unique operators submitted applications to obtain 72 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. Effective March 23rd, the business licensing team ceased cannabis-related site inspections due to impacts of the COVID-19 pandemic and state of emergency and related safety concerns for staff. As of May 1st, the team resumed inspections with an emphasis placed on strict adherence to social distancing protocols and the use of personal protective equipment. The table below provides a detailed status update of cannabis business license applications submitted through March 31, 2020.

	Business Licenses Applied For	Business Licenses Issued	Business Licenses Pending
Cultivator	44	6	38
Nursery	20	3	17
Manufacturer	1	0	1
Retailer Non-Storefront	2	1	1
Distributor	5	0	5
Totals	72	10	62

Retail Storefront Selection Process

At the Board of Supervisor's meeting on January 14, 2020, the Board adopted an ordinance amendment to the Cannabis Business License (Chapter 50) which amended the cannabis retail storefront licensing process to establish a merit based criteria scoring system, rather than the previously adopted random selection system. This ordinance amendment became operational on February 13, 2020.

Per the newly adopted ordinance, the merit based selection process will commence with community engagement meetings to gather input from each community plan area where storefront retail is allowed on application criteria and neighborhood compatibility for the Neighborhood Compatibility Plan portion of the retail storefront application.

Staff had initially scheduled community engagement meetings to begin in April 2020, but due to the COVID-19 public health emergency, these meetings were cancelled out of an abundance of caution for the safety of the public and staff. Staff anticipates rescheduling these meetings beginning in June.

Cannabis Enforcement

In the third quarter reporting period, the enforcement tempo slowed due to the seasonal cultivation cycle as well as the impact of COVID-19. Some Sheriff Enforcement Team operations were conducted prior to the slowdown, which included an illegal sales and possession operation in Carpinteria, a perjury and illegal cultivation case in Cebada Canyon, as well as an illegal delivery service in North County. During the slowdown, the team responded to two butane honey lab explosions and assisted patrol and outside agencies with cannabis complaints and investigations. The slowdown afforded the Enforcement Team additional time to review cases, complete case follow-up, and identify investigative goals and strategies moving forward. Shown below is a summary of enforcement actions conducted by the Sheriff Team.

	FY 2018-19 Q1, Q2 & Q3 Totals	FY19-20 Q1	FY19-20 Q2	FY19-20 Q3	FY 2019-20 Q1, Q2, & Q3 Totals
# of Enforcement Actions	34	12	8	5	25
# Live Plants Confiscated	512,971	16,684	100	0	16,784
Live Plant \$\$\$	\$105.7M	\$4.2M	\$20,000	\$0	\$4.22M
Dried Product Confiscated (lbs)	14,900	1,157	74	1,831	3,062
Dried Product \$\$\$	\$14.9M	\$1.2M	\$59,200	\$2M	\$3.3M

During the third quarter, the Planning and Development department opened six new cannabis enforcement cases (four in the South County and two in the North County) and no cases were closed. During this period, the department responded to 105 complaints (seven were related to cultivation in the North County, one was a greenhouse noise complaint in the Carpinteria area, and 97 were related to odor in the Carpinteria area). Most violations continue to be associated with odor, alleged unpermitted cultivation and structures. Enforcement operations are mostly complaint-driven, however some of the sites have been identified using other sources of information and coordinating with the Sheriff’s Office and Agricultural Commissioner’s Office staff.

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 CDFR to access Track and Trace data for up to 250 State-issued, cannabis licenses in the County.
4. Commence Business Licensing process mapping project to identify bottlenecks, inefficiencies, and redundancies in an effort to streamline the licensing process.

Fiscal and Facilities Impacts:

Budgeted: Yes

Authored by:

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