



**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 14, 2017
Placement: Departmental
Estimated Time: 5 hours
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

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

SUBJECT: Update on Issues Related to Taxation Options, Ballot Measure and Potential Cannabis Regulations

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors (Board):

- A. Receive a report that analyzes economic and tax revenue options (Attachment A) of potential cannabis activities in unincorporated Santa Barbara County, and
 - i. Provide direction to staff to develop a gross receipts tax as recommended by the staff as follows:
 - 2% gross receipts tax on nurseries and distributors;
 - 4% gross receipt tax on all cultivators;
 - 6% gross receipts tax on manufacturers and retailers;
 - Cap any gross receipts tax at 8%; OR
 - ii. Provide other direction to staff on taxation methods
- B. Provide direction to staff (Attachment B) to develop a ballot measure for cannabis taxation including:
 - i. Creation of required documents for a **June 2018** Primary Election ballot; OR
 - ii. Creation of required documents for a **November 2018** General Election ballot;

AND

- iii. Development of a measure for **General revenue** purposes; OR
- iv. Development of a measure for **Specific revenue** purposes; AND
 - v. Condition cannabis Business Licenses and Land Use Permitting on voter approval of a cannabis tax measure OR
 - vi. Provide other direction to staff on a cannabis tax ballot measure.
- C. Receive an update on cannabis banking related issues and the method of processing the proposed business licenses;
- D. Receive an update and provide direction to staff on options regarding staffing and methods for implementing compliance and enforcement with local cannabis regulations;
- E. Receive an update on the health impacts of cannabis consumption;
- F. Receive an update on the State emergency regulations published on November 16, 2017 by the three State cannabis licensing authorities;
- G. Pursuant to Board direction on November 14, 2017 regarding **Temporary State Licenses**
 - i. Take no action and thereby do not authorize any response to the State for Temporary State License requests; OR
 - ii. Direct staff to provide a letter (Attachment C) as the County's response to the State for Temporary State License requests for cannabis cultivation; OR
 - iii. Other direction to staff as appropriate;
- H. Pursuant to Board direction on November 14, 2017 regarding processing applications for **Annual (non-temporary) State Licenses** during the "transition period" for Coastal and Inland areas, receive an update and direct staff to include this process when a final ordinance returns for Board consideration;
- I. Receive an update on the conceptual cannabis licensing and land use permitting options discussions conducted by the Board on September 19, 2017 (Attachment E); and
- J. Determine, pursuant to the California Environmental Quality Act (CEQA) Guidelines 15378(b)(5), that the above actions are not a project subject to CEQA review because they are administrative activities that will not result in direct or indirect physical changes in the environment.

Summary Text:

Since February 14, 2017, the Board has directed staff to evaluate options to potentially allow, regulate and tax certain commercial cannabis activities following the 2016 voter-approved, statewide initiative that legalized adult use of cannabis. This Board letter provides updates, and where necessary, requests Board direction on several issues related to taxation methods, ballot measure development, banking issues, staffing needs for both compliance (i.e. fee-backed services to apply for and then ensure compliance with local permits) and enforcement (i.e. activities to enforce against unauthorized or unpermitted uses), potential public health impacts of legalized cannabis use and State licensing,. While the Board is under no regulatory deadline to take action now, the Board approved urgency ordinance does expire in March 2019. Additionally, the State's licensing program, to begin January 1, 2018, has put pressure on some

local governments to act soon to better regulate the industry and develop rules to allow for legalized operation. In addition, to take advantage of either the 2018 primary or the General Elections for a potential cannabis tax measure, ordinances would need to be developed in 2018.

A. Economic and Tax Revenue Analysis and Taxation Structure– *Receive a report from HdL Consultants and Provide Direction on Local Cannabis Taxation Structure Ballot Measure*

Background – Taxation Approaches. The County may impose a tax on cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products. Any tax imposed by the County would need to be approved by the voters and would be in addition to any State cannabis taxes. As discussed in more detail below, the State imposes an excise tax, a cultivation tax, and a sales tax on cannabis. The four main approaches to taxing the various cannabis commercial activities are:

- A tax on **gross receipts** of a cannabis business: The State’s 15% excise tax is assessed on the average market price of cannabis. Price-based taxes, while easy to set up, can be difficult to administer unless they are worked into non-vertically integrated systems. A non-vertically integrated system is one in which, at each step in the supply chain, different licensees are involved. Price-based taxes can be easier to evade than other alternatives because bundling or other purchasing deals can affect the real price. In addition, price-based taxes are subject to reduced collections as the price of cannabis decreases due to increased market activity.
- A tax on **cultivation area by square foot**: This is the method most commonly used by local jurisdictions to tax cannabis cultivation. One advantage of a square footage tax is the opportunity to collect the tax up front, thus providing initial funds to support the program rollout. Questions to consider on a square footage tax include what square footage to count, whether to collect annually or per plant cycle, and how to administer in the case of plants that do not come to fruition. A square footage tax may require administrative agents on the ground to identify the size of each grow or rely on reported quantities in the “track and trace” data system. While the strength of a square footage tax makes it easy to predict and hard to evade, it is also costly to administer.
- A **per-unit tax on the product** by volume: The State’s inflation-indexed cultivation tax of \$9.25 per ounce of cannabis flower or \$2.75 per ounce of dried leaves is a tax on volume, which does not consider the value of the product. A weight-based tax is easy to administer because it can be collected at numerous points of sale or product transfer. Moreover, weights can be verified through systematic or random inspections. The difficulty of a weight-based tax is in the details. For instance, the weight of a cannabis plant can change over time due to trimming and drying, requiring timelines to be established for when plants should be weighed, which may impact the ease of administration and enforceability.
- A **retail sales tax at point of sale**: All retail sales of cannabis and cannabis products are subject to State and local sales taxes, with a limited exception for qualifying patients with a State-issued ID card. State and local taxes within unincorporated Santa Barbara County are currently 7.75%.

Analysis by HdL Consultants. The Ad Hoc Subcommittee suggested that the Board of Supervisors consider placing a Cannabis Operations Tax Ordinance on the ballot for the June 2018 primary election. Staff contracted with Hinderlitter, de Lamas & Associates (HdL) to analyze possible taxation options and to develop a range of revenue estimates. HdL was able to base their estimates on data from the County’s Cannabis registry and a survey conducted last year by the California Department of Food and Agriculture. The full report from HdL is included as Attachment A and concluded the following:

- Most jurisdictions tax cultivators by the square foot.
- Jurisdictions typically tax outdoor, mixed light and indoor cultivators at different rates due to the difference in the number of harvests.
- Other cannabis operations (manufactures, distributors, and retail) are typically taxed a percentage of gross receipts
- Revenue estimates range from \$4 million to \$64 million annually for cultivation, and another \$1 million to \$8 million from cannabis retailers and manufacturers, depending on the tax rate and number of licensed operators contingent on what license types are authorized by the Board and any zoning and permitting restrictions approved by the Board. See Attachment A, pages 28-35.

An increasing number of jurisdictions in California have passed or proposed cultivation taxes on a per square foot basis. The main benefit of this tax is that it is easy to assess and track. Most of the cultivation licenses are based on an allowable number of square feet for cultivation. Thus, taxes are assessed based simply on the license type the company holds. Cultivators may be opposed to this method because they may choose to cultivate less than the maximum amount allowed under their permit, or they may lose some of their crop (for example, due to pest or weather) and thus owe taxes on a worthless product.

Gross receipts or product weight, on the other hand, may be deemed fairer by cultivators because they are only taxed on actual revenues collected or product sold. However, under these structures it is much easier for product to evade taxation, presenting a greater enforcement and administrative burden. These concerns may be alleviated by a robust track and trace program that ensures all product is accounted for.

While some states or local jurisdictions may be looking to focus their taxes on the final retail sale, cultivation taxes could be an important source of revenue for the County of Santa Barbara. The County grows and exports more cannabis than is purchased at local retail outlets. By only taxing at the retail level, the County would severely limit the tax revenue generated from the preponderance of the local cannabis operations.

State Taxes. The State of California has applied a modified version of how it taxes cigarettes and alcohol to the cannabis industry. Alcohol in California is taxed with a weight-based excise tax with the rate varying by type of alcoholic beverage and the tax is paid by manufactures, wine growers, wholesalers and importers. Cigarettes are taxed by volume at the level of distribution through cigarette tax stamps.

Effective on January 1, 2018 two State cannabis business taxes will apply to cannabis businesses:

- A 15 percent excise tax on the average market price of any retail sales is imposed upon purchasers of cannabis and cannabis products. Retailers of cannabis and cannabis products are required to collect the 15 percent excise tax from the purchaser based on the average market price of any retail sale and pay it to their cannabis distributor.
- A cultivation tax is imposed upon cannabis cultivators on all harvested cannabis that enters the commercial market and the State may utilize tax stamps to indicate that the tax has been paid. Cannabis cultivators are required to pay the cultivation tax to either their distributor or their manufacturer. The tax will be adjusted annually for inflation. The rate of the cultivation tax is:
 - \$9.25 per dry-weight ounce of cannabis flowers that enter the commercial market, and
 - \$2.75 per dry-weight ounce of cannabis leaves that enter the commercial market.

The State taxation system for cannabis requires that:

- Distributors must collect the cannabis excise tax from retailers and the cultivation tax from cultivators upon entry to the commercial market.
- Manufacturers must collect the cultivation tax upon the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer.
- Distributors and/or manufacturers must report and pay the cannabis excise tax and/or the cultivation tax to the California Department of Tax and Fee Administration (CDTFA).

Taxes may provide some opportunity to encourage and incentivize certain industry behaviors while discouraging or dis-incentivizing others. While dispensaries must be located to serve the local population, both cultivation and manufacturing have some option to move to other jurisdictions depending on the regulatory climate. The selected tax structure will affect aspects of the industry the County wishes to support and encourage or discourage.

When multiple tax methods are applied at both the local and state levels, each adds to the final price of the product. Varying tax structures at both the local and state levels as well as varying levels of mark-up within the supply chain can make it hard to find a common denominator for determining the cumulative tax rate. It is not as easy as simply adding all the tax rates together.

Other California County Taxation Measures. The following are November 2016 measure passed in different counties.

- Humboldt County - At the November 8, 2016, general election, Humboldt County voters passed a general tax measure with 66% approval that imposes the following cultivation taxes: \$1 per sq. ft. for outdoor, \$2 per sq. ft. for mixed-light and \$3 per sq. ft. for indoor. The tax rate for each will be adjusted by an annual consumer price index factor. The County estimated annual revenues at approximately \$7.3 million, based on the potential issuance of 400 permits. There were no taxes on other operator types proposed.
- Monterey County - Last November, Monterey County residents also voted on a cannabis tax measure. It was a general tax. The measure passed with 74% approval, and taxes all operators in the supply chain. The tax will phase in over six years and then be annually adjusted by the CPI for cultivators and nurseries. The implementation of its permitting ordinance was contingent on voters passing the tax. The tax is as follows:

Example of Implementation – Year by Year			
	Cultivation	Nurseries	All Other Cannabis Business
Year 1 (1/1/2017)	\$15/sq. ft.	\$2/sq. ft.	5% Gross Receipts
Year 2 (7/1/2018)	\$15/sq. ft.	\$2/sq. ft.	5% Gross Receipts
Year 3 (7/1/2019)	\$15/sq. ft.	\$2/sq. ft.	5% Gross Receipts
Year 4 (7/1/2020)	\$20/sq. ft.	\$3.50/sq. ft.	7.5% Gross Receipts
Year 5 (7/1/2021)	\$25/sq. ft.	\$5/sq. ft.	10% Gross Receipts
Year 6 (7/1/2022)	\$25/sq. ft. + CPI	\$5/sq. ft. + CPI	10% Gross Receipts (No CPI)
Year 7 Onward	Prior Year + CPI	Prior Year + CPI	10% Gross Receipts (No CPI)

- Mendocino County - Mendocino County also approved a general tax measure last November with 64% approval that imposed taxes on all operators in the supply chain. The measure imposes a 2.5% business tax on gross sales from cultivation and dispensaries of medical and nonmedical cannabis, which could be raised in increments of 2.5% up to 10%. The measure also imposes a \$2,500 annual charge on distributors, transporters, manufacturers, delivery services, nurseries and testing labs.
- Santa Cruz County - In November 2014, Santa Cruz County voters passed with 78% approval a measure authorizing the county to collect tax gross receipts on medical cannabis dispensaries at a rate of no more than 10%, which began at initial rate of 7%. The general purpose taxes are remitted on a monthly basis and the collection of the Cannabis Business Tax, (CBT), has resulted in some challenges for the tax collection system. These include large cash payments which generate safety concerns for storage, transport and collection, and difficulty in outreach to other types of cannabis businesses besides dispensaries as many continue to remain in the shadows, pay in cash, and maintain inadequate record keeping systems. Despite these challenges, over \$6.7 million has been collected in Cannabis Business Taxes in Santa Cruz County since 2014.

Factors to consider for taxation. Staff believes the following factors should be considered when deciding on the appropriate cannabis taxation structure for Santa Barbara County:

- Impact on fostering the unregulated market due to cumulative taxation (including state excise and sales tax);
- Encouragement of cannabis businesses to enter the regulatory framework;
- Comparison of tax structures/rates of surrounding jurisdictions;
- Local tax differential for medical and non-medical cannabis;
- Complexity of tax structures/difficulty of enforcement;
- Local tax in unincorporated area only or countywide;
- Impact of cannabis business on County infrastructure and other resources (e.g. enforcement, environment, neighborhoods, etc.)
- Anticipated decline in the price of cannabis following access to licensed retailers; and
- Stability of tax revenue stream.

Taxation Option 1: After conducting research and reviewing the results of the HdL Study, staff recommends that the Board consider adopting an excise tax on cannabis cultivation, manufacturing and retail in the unincorporated area of the county. If the Board wanted to raise these rates, they would have to return to the voters for approval. The Board may also want to consider a 1% of gross receipts tax on testing lab. The excise tax would be based on the gross receipts of each of the cannabis businesses, as follows:

- Distributors and Nurseries - 2% on gross receipt
- Outdoor, Indoor cultivators & Mixed Light cultivators - 4% on gross receipts
- Manufacturers and Retailers - 6% on gross receipt

If we apply these recommended tax rates to the revenue estimates provided by HdL in their analysis of the revenue, HdL then possible excise revenue may be in the following conservative ranges based on the number of actual businesses that operate in the unincorporated area of Santa Barbara County:

<u>License Types</u>	<u>5% of Registry</u>		<u>HdL 10% of Registry</u>		<u>15% of Registry</u>	
	<u># of Licenses</u>	<u>Tax Revenue</u>	<u># of Licenses</u>	<u>Tax Revenue</u>	<u># of Licenses</u>	<u>Tax Revenue</u>
Distributor and Nursery Licensees	14	\$210,000	28	\$420,000	42	\$630,000
All Cultivator Licensees	65	\$6,364,461	129	\$12,728,922	194	\$19,093,383
Manufactures & Retailers Licensees	4	\$600,000	8	\$1,200,000	12	\$1,800,000
Totals	83	\$7,174,461	165	\$14,348,922	248	\$21,523,383

Taxation Option 2: Staff also believes that the Board could adjust any of the recommended tax rates with a total rate across the supply chain of around 10%. HdL anticipates that whatever taxation structure is chosen, cumulative County tax rates of not more than 10% be applied; otherwise we raise the risk of deterring cannabis operations from entering the regulatory framework. Any local taxes will be in addition to current State taxes of approximately 20%. HdL and law enforcement officials often note that total tax rates in excess of 30% will reduce the number of cannabis operators that participate in the licensing and permitting system.

Taxation Option 3: Similar to the counties shown above, the Board could also opt to start at lower rates, such as those recommended in Option 1, which the Board could increase at its discretion to a maximum percentage. The rates shown in Option 1 could be the starting point, and be raised to a maximum of 8%. The process and timing to raise tax rates under this option would be defined in the measure.

Other Taxation Options: Should the Board prefer other taxation structures (e.g. per square foot or ounce), staff has presented a matrix of options (Attachment B) to assist in that deliberation.

Long Term Fiscal Impacts: While it is difficult to predict the market price of cannabis over the longer term, some surmise that the price will likely drop as supply of the crop increases. If this occurs, County taxation revenues will also decline. **The Board should consider any revenue projections as an estimate at a point in time, and likely not sustainable at these levels over the longer term.**

Staff Recommendation. Staff recommends the Board receive this report by HdL Consultants, provide direction on the recommended taxation approach, general or special tax measure and making the County's business licensing and land use permitting regulations conditioned on voter approval of the tax measure or provide other direction. Should the Board direct a ballot measure for June 2018 (see below), staff would need this direction now to be able to return in January or February with draft ordinance and ballot measure for consideration, contemporaneous with the adoption of the land use and business license ordinances.

B. Possible Direction on Cannabis Tax Ballot Measure – *provide direction on elements of a local ballot measure*

In addition to the taxation structure discussed above, if the Board desires to place a local tax measure on cannabis, the following decisions would need to be made to develop the ballot measure for Board approval.

Timing: June 2018 or November 2018. The ad-hoc committee had suggested a June 2018 ballot measure, which has largely driven the schedule for the County's overall cannabis related effort.

- A June 2018 ballot measure in the primary election would allow earlier collection of revenue for enforcement and other services prioritized by the Board near the beginning of the second quarter of Fiscal Year 2018-19. It would also be timely given the State's stated timelines for its licensing program. The elections related costs would be with primary election candidates and at least one possible school bond measure. If the ballot measure fails, the Board could reconsider it again in November 2018. In addition, if presented in June 2018, it would not compete with potential other measures that may be proposed for November 2018.

However, this requires a very short time frame for Board decisions. Staff would need to provide required documents for the Board's consideration no later than February 6, 2018 (first reading) and adoption (second reading) on February 13, 2018 for the June 2018 Primary election ballot.

- A November ballot measure may draw a larger voter base but delay collection of revenues to December 1, 2018 or perhaps early 2019. Therefore, the County would not have revenues to fund additional enforcement activities or other prioritized services. It may also compete with other potential ballot measures that may be proposed. It would, however, provide more time for the Board and County staff to further evaluate options. The elections cost would be shared with general election candidates and an unknown number of other ballot measures. If it failed, the Board could reconsider it again in the primary elections of June 2020 or November 2020.

General versus Special Tax Measure. To date, the Board has not designated any uses of potential tax revenue; the only use mentioned thus far has been enforcement costs that cannot be paid for through permit fees.

- A general purpose tax (deposited to the general fund for general appropriation) requires a majority (over 50%) vote of the electorate. It also requires that a 4/5 vote of the Board to place it on the ballot.
- A special tax (deposited to a special or general fund but designated for defined purposes) requires a supermajority (over 66%) vote of the electorate. It requires a majority vote of the Board to place it on the ballot.

Termination of County Ordinances if Ballot Measure Fails. While not a component of the ballot measure per se, if the tax fails to pass, the County may not want to continue or adopt the land use and business license ordinances. Therefore the Board has a few options regarding the County's ordinance:

- If the Board wishes to approve land use permitting and licensing ordinances prior to June 2018, a provision could be included in the ordinances that provides an **immediate, or later, end to the allowed cannabis operations should the ballot measure fail**. The County's approval of the individual license and permit applications could clearly include a notice about the applicant's risk of uncertainty.

- The Board could also approve the new permitting and licensing ordinances only **after assurance of a successful ballot measure**. This would delay the effective or operational dates of the ordinances to after June 2018 or November 2018.

Staff Recommendation: To give the Board flexibility, staff recommends a June 2018 ballot measure that is a general purpose tax.

C. Banking Issues – *Receive an update*

Related closely to the issue of taxation are the difficulty of receiving tax and fee revenue from what are typically all cash businesses selling a federally designated Schedule 1 drug which remains illegal under federal law. In 2016, the regulated cannabis industry nationwide generated approximately \$7.9 billion.

According to the United States Department of Treasury in March 2017, roughly 368 United States financial institutions, comprised of both credit unions, commercial banks and traditional payment processors, are currently serving cannabis operators. Most of the large banking institutions are not serving cannabis operators.

Cole Memo Guidance. In 2013, the Department of Justice issued a memorandum (the “Cole Memo”), which offered guidance to federal prosecutors regarding cannabis enforcement priorities. Specifically, the Cole Memo created a policy that permitted cannabis business to operate largely without federal interference in states that had legalized medical or non-medical cannabis and created a sufficient regulatory system that reduced the negative impacts of unregulated operations including access by minors.

In response to the Cole Memo, in 2014 the Financial Crimes Enforcement Network (“FinCEN”), a division of the Department of Treasury, published a written guidance that clarifies customer due diligence expectations and reporting requirements for financial institutions seeking to provide services to cannabis businesses. The guidance provides that financial institutions can provide services to cannabis-related businesses in a manner consistent with their obligations to know their customers and to report possible criminal activity. Providing clarity should enhance the availability of financial services for cannabis businesses. This would promote greater financial transparency in the cannabis industry and mitigate the dangers associated with conducting an all-cash business. The guidance also helps financial institutions file reports that contain information important to law enforcement. Law enforcement will now have greater insight into cannabis business activity generally, and will be able to focus on activity that presents high-priority concerns. Another part of the FinCEN rules requires banks to file regular reports tracking activity with cannabis-related businesses. These reports are called suspicious activity reports and provide a clear picture of the industry’s banking activity.

A bank that serves the cannabis industry can expect to increase operational costs across the board in order to satisfy the due diligence requirements imposed by FinCEN. Banks conduct due diligence through reasonable investigation of a business’ account activity and by reviewing publicly available information about the business. These due diligence obligations often force a bank to hire additional labor and implement new software, in an effort to track the integrity of its cannabis related business customer. Increased costs further deter local banks from participating in the industry.

State Treasurer’s Banking Working Group. State Treasurer John Chiang has convened the Cannabis Banking Working Group (CBWG). The working group, made up of representatives from law enforcement, regulators, banks, taxing authorities, local government and the cannabis industry, is charged with finding

practical and timely ways to address the state-federal conflict. California State Association of Counties (CSAC) is a member of the CBWG to represent the interest of counties across the state. In November 2017, the CBWG issued an assessment of the challenges facing the cannabis industry and outlined a series of steps to address those challenges. As Treasurer Chiang states in his cover letter:

“The starting point is the current situation, in which the cannabis industry operates predominantly in cash, with only sporadic banking access. The end point is federal legalization of cannabis or, if that is not achievable, legislation shielding financial institutions that serve the cannabis industry. To progress along this continuum, we recommend the following actions: (1) the implementation of safer, more effective, and scalable ways to handle the payment of taxes and fees in cash that minimize the risks to stakeholders; (2) the State of California and local governments should develop a data portal of compliance and regulatory data and make it available to financial institutions that bank cannabis businesses; (3) a feasibility study of a public bank or other state-backed financial institution that provides banking services to the cannabis industry should be conducted; and (4) a multistate consortium of state government representatives and other stakeholders should be established to pursue changes to federal law to remove the barriers to cannabis banking.”

As a result of the CBWG analysis and recommendation, the County of Santa Barbara may want to begin considering safe and effective means of receiving cash payments for possible cannabis taxes and fees, including researching local secure courier services that pick up tax and fee payments at possible licensed sites, recording and depositing funds. This is something the State is considering to collect their taxes and license fees and we may want to explore if we could find a similar contractor. Banking services will be needed by other local jurisdictions as well. The City of Santa Barbara is in the midst of approving cannabis retail sales for medical and adult use cannabis and is planning on charging a voter-approved 20% tax on cannabis. Lompoc has also moved ahead with plans to license and permit cannabis operations within their city limits but are currently without a plan to tax cannabis businesses.

Cannabis Business Licensing

Since last April, staff has provided the Board with general information on a local cannabis business licensing program. Staff has also suggested that the requirements to attain a local cannabis business license and the requirements to attain a State license ought to align to the greatest extent possible. With the recent publication of the State regulations, it has become much clearer what the State will require. Here is a brief summary of what a local cannabis business licensing program could entail:

- License applications would be available from and collected by the Treasurer-Tax Collector and reviewed by a combination of staff from Sheriff, Agricultural Commissioner, Environmental Health and Fire;
- Licenses would be in effect for one year and would need to be renewed;
- Licenses would be non-transferable;
- Licenses would require the definition of a specific cannabis premise for each license;
- Licenses would be granted to individuals following fingerprinting and background check of owners;
- Licenses would require a site inspection; and

- Licenses would require the payment of all state and local taxes.

Finally, staff would recommend including a provision in the business license to eliminate the cannabis business licensing program if the cannabis tax measure fails to be approved by the voters.

Next Steps. Staff will continue to work with the County Treasurer's Office and survey other California jurisdictions on possible options and provide an update to the Board in January prior to consideration of ordinances or ballot measure language.

Staff Recommendation. Staff recommends you receive this update.

D. Staffing Costs: Cannabis Licensing, Permitting and Compliance Staffing and Enforcement Costs – Receive and Provide Direction

If the Board chooses to create a regulated cannabis licensing and land use permitting market, licensees and permittees in that system could be expected to pay fees based on the actual costs (based on full-cost recovery policies within existing fee schedules) of initial permitting, including site visits and inspections, as well as ongoing site monitoring costs if conditions of the permit require ongoing site monitoring. Staff has identified a series of ***Licensing, Permitting & Compliance*** activities and costs to address the regulated cannabis industry. Departments that might be engaged in business licensing, land use permitting and permit monitoring, such as Planning & Development, Sheriff, Fire, Agricultural Commissioner, Treasurer-Tax-Collector, County Counsel and Environmental Health have adopted fee schedules that would be utilized to bill land use permit and business license applicants or holders for full cost recovery of those application review and inspection activities by county staff.

However, regardless of whether or not the Board chooses to regulate a local cannabis industry, there will be additional costs to provide ***Enforcement*** activities against unlicensed and unpermitted cannabis operations and against those within the regulated market that might choose to also engage in unlicensed and unpermitted activities. These Enforcement costs are listed further below. Departments that might be engaged in Enforcement, such as Planning & Development, Sheriff, District Attorney, Fire, Agricultural Commissioner and Environmental Health rely on general funds to conduct these code enforcement and public safety functions.

Cost of Licensing, Permitting and Compliance on the Regulated Cannabis Operations

HdL estimates that somewhere between 160 and 650 of all license and permit types might be expected based on information from the County's registry. These estimates do not take into account any particular zoning or other regulatory restrictions, only the interest of individuals. Based on the experience in other counties, the cost of staff to conduct licensing and permitting activities is approximately \$3.1 million based on 160 licensees and with the average fee of around \$20,000 per license/permit. Last year, Monterey County estimated that implementation of their cannabis regulations, including permit and license processing and all enforcement activities of the licensed and unlicensed (see below) cannabis operators is going to cost them about \$3.5 million per year, but will generate approximately \$650,000 per year in fee revenue.

The total cost of licensing, permitting and compliance monitoring would increase marginally as the number of applicants and licensees increases, but given a full-cost recovery fee system, those costs would be borne by industry. Fee revenue is likely to lag slightly behind the time needed to hire, train and equip

staff to meet the needs of license and permit application review and processing, site visits to determine pre-licensing and permitting compliance and ongoing compliance monitoring of potential licensees and permittees. Summarized in the table below are the estimated staffing needs to carry out duties relative to licensing and permitting of a possible regulated market if the Board approves such ordinances. These staffing estimates are only based on what departments know or can reasonably anticipate regarding state licensing.

Classification	Budget Total for FY2017-18		Budget Total for FY2018-19		Budget Total for FY2019-20	
	# of FTEs	Salary & Benefits	# of FTEs	Salary & Benefits	# of FTEs	Salary & Benefits
Supervising Planner – Code Compliance	0.50	\$ 173,000	0.50	\$ 178,190	0.50	\$ 183,536
Planner III – Code Compliance	1.00	\$ 160,000	1.00	\$ 164,800	1.00	\$ 169,744
Planner I/II – Code Compliance	1.00	\$ 140,600	1.00	\$ 144,818	1.00	\$ 149,163
Hazmat Specialist I/II	1.00	\$ 125,000	1.00	\$ 125,000	1.00	\$ 125,000
Fire Engineer/ Inspector	2.00	\$ 196,000	2.00	\$ 196,000	2.00	\$ 196,000
Ag Bio/W&M Inspector			2.00	\$ 192,241		
Ag Bio/W &M Supervisor			1.00	\$ 111,640		
Ag Bio/W&M Inspector					3.00	\$ 288,360
Sheriff's Deputy - Special Duty	2.00	\$ 377,206	4.00	\$ 754,412	4.00	\$ 754,412
Sheriff's Sergeant	0.25	\$ 54,785	1.00	\$ 219,140	1.00	\$ 219,140
Administrative Office Professional II	0.50	\$ 46,084	2.00	\$ 184,336	2.00	\$ 184,336
Sheriff's Deputy - Special Duty			2.00	\$ 377,206	2.00	\$ 377,206
County Counsel staffing	1.00	\$ 171,000	1.00	\$ 171,000	1.00	\$ 171,000
Treasurer-Tax Collector staffing		TBD		TBD		TBD
Total	7.75	\$ 1,099,675	17.00	\$ 2,469,593	17.00	\$ 2,463,361

In addition to the Licensing, Permitting and Compliance staffing costs listed in this chart, staff also believes there will be a number of additional overhead and direct-charge costs in the County Executive, County Counsel, Information Technology and Treasurer – Tax Collector departments that may run as high as an additional \$400,000 annually. It may be difficult to align all of these staffing costs with fee revenue.

Cost of Enforcement on the Unregulated Cannabis Operations

When it existed, the Ad-Hoc Subcommittee spent a considerable amount of time discussing future compliance staffing needs based on the amount and types of cannabis activities that could be allowed within the County. Although it is unknown at this time whether or to what degree the Board will allow commercial cannabis activities, there is going to be continued illicit activity associated with cannabis even if licensing and permitting is implemented. Funding for enforcement activities to reduce the unregulated and illicit cannabis market is largely anticipated to need to come from general county revenues. If a cannabis tax is not placed on the ballot or is defeated by voters, the cost of illegal cannabis enforcement would be competing for general revenues used for many other county programs.

Indeed, although commercial cannabis activities are currently restricted to only those medicinal cultivation operations that were legally in existence as of January 19, 2016, since that time, Zoning Enforcement staff

has managed 40 zoning violation cases involving cannabis activities, 11 of which were abated or resulted in no violation to date. Thus, even if the Board decides to ban some or all commercial cannabis activities that are permissible under State law, it is likely that illegal commercial cannabis operations will continue, thus warranting continued law enforcement activities.¹ Some policy flexibility exists about whether illegal cannabis activities would result in an infraction or a misdemeanor charge.

Staffing needs will vary depending on whether zoning enforcement is reactive versus active. However, as stated above, it is likely that—even if the Board decides to continue with the current, reactive form of zoning enforcement—at least a modest increase in staffing will be required to account for new activity associated with cannabis. Also, if the Board desires cannabis enforcement cases to be resolved more quickly than how current cannabis enforcement cases are resolved, additional staff is likely going to be required.

In addition, fee based permitting and ongoing monitoring, County department staffing needs are estimated to be as follows:

Classification	Budget Total for FY2017-18		Budget Total for FY2018-19		Budget Total for FY2019-20	
	# of FTEs	Salary & Benefits	# of FTEs	Salary & Benefits	# of FTEs	Salary & Benefits
Supervising Planner	0.50	\$ 173,000	0.50	\$ 178,190	0.50	\$ 183,536
Planner III	1.00	\$ 160,000	1.00	\$ 164,800	1.00	\$ 169,744
Planner I/II	1.00	\$ 140,600	1.00	\$ 144,818	1.00	\$ 149,163
Ag Bio/W&M Inspector			1.00	\$96,120		
Ag Bio/W&M Inspector					1.00	\$96,120
AG Bio/W&M Supervisor			1.00			\$111,640
Health Specialist	1.00	\$ 120,030	1.00	\$ 120,030	1.00	\$ 120,030
Sheriff's Deputy - Special Duty	1.50	\$ 282,905	3.00	\$ 565,809	3.00	\$ 565,809
County Counsel staffing	1.00	\$ 171,000	1.00	\$ 171,000	1.00	\$ 171,000
Treasurer-Tax Collector staffing		TBD		TBD		TBD
Total	6.00	\$ 1,047,535	9.50	\$ 1,440,767	8.50	\$ 1,567,042

Staff Recommendation. Staff recommends you receive this update and provide direction a necessary. Implementing these staffing changes will be synchronized with possible adoption of the cannabis business licensing and land use permitting programs in early February. Departments may use a variety of methods to providing necessary staffing to respond to a Board approved licensing and permitting plan.

E. Health Impacts of Cannabis Consumption – Receive an Update.

At the recent *Preparing for Recreational Cannabis workshop* in Buellton, Dr. Larry Wolk, Executive Director and Chief Medical Officer of the Colorado Department of Public Health and Environment and Dr. Cobb Scott, PhD, University of Pennsylvania Department of Psychiatry noted the need for data on the

¹ AMEC Foster Wheeler. *Draft Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program*. October 2017. State Clearinghouse No. 2017071016. Chapter 5, § 5.4. Available on-line at: http://longrange.sbcountyplanning.org/programs/Cannabis/Environmental/Draft%20PEIR/SBC_Cannabis_Complete_DEIR.pdf. Accessed on October 16, 2017.

effects of cannabis use. Videos of the two keynote presentations are available from the Public Health Department.

Based on the limited available data, Dr. Scott noted that early initial use of cannabis is a risk factor for cannabis use disorder, which is strongly influenced also by social, familial, environmental factors, and genetics. He also reported that in youth, there is some association between use and cognitive functions, anxiety, and depression.

Based on two years of data in Colorado, Dr. Wolk noted in particular that significantly more high school youth who use cannabis prefer smoking it, rather than edibles or vaping; that uninformed tourists are the major contributor to the increase in Emergency Department visits related to cannabis; that prevention messages need to be focused and relevant to specific communities that are vulnerable, including youth and pregnant/breastfeeding women; and that alcohol continues to be responsible for more illness & injury than any other drug, including cannabis. In a special discussion with County staff, Dr. Wolk stated that Denver has seen an unexpected influx of homeless since legalization, and that the increase in demand for public services such as social services, law enforcement, and healthcare is an additional cost of cannabis legalization that was not anticipated. He also noted a surprising partnership has developed between the legal cannabis industry and law enforcement to find and extinguish illegal grows.

The County of Santa Barbara Public Health Department supports a measured approach to local adult-use cannabis policies. The Public Health Department supports implementing a robust public education campaign. Education on cannabis use that is accurate and unbiased is a cornerstone of preventing adverse health impacts. Successful education campaigns should be culturally sensitive and tailored to specific groups including those at higher risk (youth, pregnant women) using messaging that is relevant to them. Anti-cannabis messaging is not effective. Instead, conveying the risks and responsibilities of cannabis use and the benefits of delayed use for youth has been shown to be more successful.

Historically, lower socio-economic neighborhoods have had a higher density of retail tobacco outlets, fast-food establishments, been targeted by tobacco advertising, and had higher rates of substance use. Including health equity considerations in cannabis retail outlet location, density, and advertising will help ensure that vulnerable neighborhoods are not disproportionately impacted.

Those who believe they've experienced an allergic reaction to cannabis odors are advised to see their physician. Public Health is exploring options to create a mechanism for physicians to report suspected cases as part of our partnership with the local medical community and potential data collection efforts. There is insufficient evidence in the medical literature at this time to determine if odor alone (even exclusive of pollen) can cause adverse physical reactions.

The California Department of Public Health recently launched the *Let's Talk Cannabis* campaign and will soon be launching a "what's legal" video, which is similar to the ones created in Colorado and Alaska. The Santa Barbara County Public Health Department hopes to convene local partners and stakeholders to plan and implement a local prevention and education campaign focusing on youth and pregnant/breastfeeding women beginning in spring 2018. We anticipate customizing the facts sheets and media resources from the state once they are available beginning in December.

Staff Recommendation. Staff recommends you receive this update.

F. Update on State Licensing Authorities Emergency Regulations - Receive an Update

Background

On November 14, 2017, staff presented options to the Board regarding Temporary State Licenses, but requested that final action be deferred until the State's Emergency regulations were released. The three designated cannabis licensing authorities, California Department of Food & Agriculture-CalCannabis, Department of Public Health-Manufactured Cannabis Safety Branch and the Department of Consumer Affairs-Bureau of Cannabis Control, each published emergency regulations on November 16, 2017. Other State agencies, for example the State Water Quality Control Board, have also developed regulations and established requirements for cannabis operations.

These regulations contain 278 pages of specific rules for how each of the licensing authorities will implement the medical and adult-use cannabis operations statutes approved by lawmakers and voters.

Summary

Emergency regulations take effect immediately and the licensing authorities have stated that they will take public comment on the new regulations through 2018. The chart below presents outlines of the content of the regulations.

Department of Food and Agriculture	Department of Public Health	Bureau of Cannabis Control
Cultivator and Nursery Licenses	Manufacturer, Infusions, Packaging	Distributor Testing Lab and Retailer
3 CCR § 8000	17 CCR § 40100	16 CCR § 5000
Definitions	Definitions	Definitions
Applications	General Provisions	Applications
Cultivation License Fees & Requirements	Manufacturing – Applications for Licensure	Licensing
Cultivation Site Requirements	Manufacturing – Fees	Posting and Advertising
Records and Reporting	Manufacturing – Approval or Denial of Applications for Licensure	Security
Inspections, Investigations & Audits	Manufacturing – Licensing	Track & Trace
Enforcement	Requirements of Operation – Safety & Security	Returns and Destruction
	Requirements of Operation – Extractions	Distributor requirements
	Requirements of Operation – Good Manufacturing Practices	Retailer requirements
	Requirements of Operation – Production & Process Controls	Microbusiness requirements
	Requirements of Operation – Special Processing Requirements & Other Responsibilities	Cannabis events
	Products – Cannabis Product Standards	Testing lab requirements
	Labeling & Packaging Requirements	Enforcement
	Compliance - Records	

	Compliance – Track & Trace System	
	Compliance – Advertising & Marketing	
	Compliance - Inspections	
	Transitional Period	

Of most significance to the Board’s current and past discussions:

- Though the prohibition for the large cannabis cultivation licenses (Type 5) of more than one acre continues to be in place until 2023, there is now effectively no limit on the number of small cultivation licenses one company could aggregate with their one (still limited until 2023) Type 3, 3a or 3b license. There are restrictions on excessive concentrations of retail and microbusinesses
- The premise of each cultivation license needs to be clearly defined with their application with its specific location on an illustration of the legal parcel.
- A new “Delivery” license (Type 9) has been added to specifically allow for the regulation of providing cannabis or cannabis products to consumers. It specifically requires delivery by enclosed motor vehicles.
- Edible cannabis products will be limited to 100 milligrams of tetrahydrocannabinol (THC) per package and other products, such as lotions and tinctures, are limited to 2,000 milligrams of THC per package. This will mean that some very potent edibles will be illegal.
- Fees and fines are established by the three State licensing authorities.
- State statute and CalCannabis regulations define “commercial cannabis activity” as including “the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for this Chapter.”
- By statute, all licensed cannabis operators will be required to sell their products exclusively to other licensed operators in either the medical or adult use supply chains. However, until July 1, 2018, medical and adult use licensed operators can sell to either the medical or adult use supply chains.

Staff Recommendation. Staff recommends you receive this update. No further action is requested. Staff will continue to review any potential updates by the State agencies and provide further information as necessary.

G. Local Response to Requests for Temporary State Licensing – Receive an Update and Consider Direction to Staff on Other Authorization

Prior Board Direction. On November 14, 2017, the Board directed staff to develop a response to the State for applications for State Temporary Licenses and return in December for final approval, after the State released its emergency regulations.

Given the Board’s adopted prohibitions on all medical and non-medical cannabis operations, with exemptions for growing six plants or less for personal consumption, as well as, cultivation of larger quantities of medical cannabis not for personal consumption that existed prior to January 19, 2016 and

compliant with State laws at that time, the possible applicants for temporary licenses would be limited to only those falling under the non-personal consumption exemption.

The components of the County's response were to include the following:

- Medical cannabis operators that believe they meet the exemption terms in Article X of Chapter 35 of the County code could submit a request for a letter from the CEO,
- They would be requested to furnish the following:
 - Sworn affidavit attesting to qualification for the medical cannabis cultivation exemption in Article X, including details and descriptions of who, where and when medical cannabis cultivation began and operates to this day and would require the medical cannabis operator to provide documentation as to their qualifications as a medical cannabis cultivator at the request of the County,
 - Proof of property owner approval for cannabis cultivation at their cultivation site, and
 - Documentation on the status of any odor control system and security plan.

The County's response letter, which the applicant must provide to the State with their request for a Temporary State License, would make factual statements about the operation and a clear statement that the nonconforming use claimed by the operator has not been adjudicated and that County Code § 35-1003 creates an exemption for medical marijuana cultivation locations already existing on January 19, 2016, if the location was legal under California state law.

Of most significance to the Board's discussion are the following provisions for temporary licenses contained in the recently released regulations:

- The emergency regulations specify that if an applicant submits a license, permit, or **other authorization** from a local jurisdiction where the premises will be located, then the State licensing authority will validate the authenticity of the submitted license, permit or other notification with the contact person from the local jurisdiction. If the local jurisdiction does not respond within 10 calendar days, the Bureau may approve the application and issue a temporary license to the applicant.
- The regulations clarify that applicants must provide proof that their premises is exempt from or in compliance with the California Environmental Quality Act (CEQA). The regulations also clarify that if an applicant does not have evidence of exemption from or compliance with CEQA that the applicant will be responsible for preparing an environmental document in compliance with CEQA that can be approved or certified by the Bureau. The Board action to create Article X of Chapter 35 of the County Code included a CEQA exemption.
- Administrative actions can be taken by the State licensing authorities, including fines for cannabis operations that continue to operate but do not obtain a temporary license prior to January 1, 2018. The regulations identifies this as a "serious" violation and subjects the operator to a \$1,001 to \$5,000 fine.
- Define "commercial cannabis activity" as including "the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for this Chapter."

"Other Authorizations" When considering an "other authorization" it would be limited exclusively to medical cannabis cultivation that was allowed as legal non-conforming under the County Code. State

cultivation regulations requires that, the State shall not approve an application for a State license if approval of the license would violate the provisions of any local ordinance or regulation adopted in accordance with Business and Professions Code section 26200 that is issued by the county or, if within a city, the city, within which the licensed premises is to be located.

In the section on temporary State licenses, the State regulations on cultivation state the following about “other authorizations:”

“For the purposes of this section, “other authorizations” shall include, at a minimum, a written statement or reference that clearly indicates the local jurisdictions intended to grant permission to the applicant entity to conduct commercial cannabis activities at the premises.”² (Emphasis added.)

One possible example is that an “other authorization” would be needed in some local jurisdiction that has land use codes that exempt cannabis cultivation from any land use permitting requirement and does not have a cannabis business licensing system. If a specific land use is exempt, then an operator would not have a physical document that provides evidence of the jurisdictions “intent” to allow that activity. A permit, license or other authorization is required to accompany a request for a Temporary State License. The “other authorization” would fill that void left when an allowed use doesn’t require a permit.

Further, Paragraph B of Section 35-1003 specifically states;

“No use permit, variance, building permit, or any other entitlement, license or permit, whether administrative or discretionary, shall be approved or issued for medical cannabis cultivation in the unincorporated areas of Santa Barbara County, and no person shall otherwise establish or conduct such activity in the unincorporated areas of Santa Barbara County.”

The County does not issue permits for legal nonconforming uses; however, the County could issue an “other authorization” letter based on the allowed exemption in the County Code, with the limitations, including lack of adjudication, previously discussed.

Sample Response Letter and Resolution. Given the Board’s direction, staff has drafted the response letter to the State (Attachment C) that could be provided to **medical cannabis cultivators that believe they are exempt from Article X of Chapter 35** of the County Code. The Board may direct staff to provide this letter to an applicant for a Temporary State License after collecting an affidavit, proof of right to occupy the property for cultivating cannabis, status of odor control system and security plan.

To avoid potential misinterpretation by the State regarding adjudication, should the State request further information on any individual application, County staff would not be authorized to provide further clarification, beyond simple authentication of the County’s letter, unless directed by the Board.

Staff does not believe this letter will be sufficient and will fail to satisfy the State licensing authorities. Additionally, the time spent producing these authorizations will reduce the time required to develop the County’s permanent land use permitting and business licensing ordinances.

Other Option. Now that staff has reviewed the State regulations, the Board could consider a previous recommendation (Option 2 of November 14, 2017) to **take no action to supply a letter to entities seeking a Temporary State License at this time.** This would result in an incomplete request for a temporary license and denial by the State licensing authority. In the next few months, staff is planning to bring to the Board

² [California Code of Regulations, Title 3. Food and Agriculture Division 8. Cannabis Cultivation Program. Article 2, Section 8100 b.6.](#)

proposed land use and business licenses ordinances that allow applicants to either receive permits or be in a consultation process. This will provide clarity as to what the County authorizes and permits.

Staff Recommendation. Staff recommends you receive this update. Staff has provided the response letter at Attachment C as directed by the Board. Given the language of the emergency regulations on State temporary licenses, staff does not believe the letter will satisfy the State licensing authorities.

H. Local Response to Applications for Annual State Cannabis Licenses prior to Operative Date of Possible Business Licensing and Land Use Permitting Ordinances – Receive an Update

Prior Board Direction. On November 14, 2017, the Board of Supervisors provided conceptual direction to staff about responding to State licensing authorities for cannabis operations seeking annual licenses (non-temporary). That direction is summarized below:

- For Inland and Coastal Areas: Between January 1, 2018 and prior to the effective date of any possible Board adopted business licensing and land use permitting ordinances (approximately mid-March 2018 in the inland portion and later for the coastal zone of the unincorporated area), staff will respond to the State within 60 days that all applicants that are not legal non-conforming medical cannabis cultivators pursuant to Article X are in **non-compliance** with local ordinances or regulations as allowed under Business and Professions Code 26055, since the County's new ordinance is not in effect. This will result in a denial of their State application.
- For Coastal Areas: Between the possible Board's adoption of business licensing or land use permitting (see approximate timing above) and then the operational date of an ordinance (e.g. Coastal Commission certification, tax measure approval or "hoop structure" ordinance), if an operator would be in compliance later, staff would not issue a local license or permit and remain silent with the State licensing authorities, if the applicant:
 - Completes a local business license and land use permitting application,
 - Application is determined to be complete, and
 - Actively participates in a consultation process with business licensing and land use permitting staff to assess ongoing compliance with the effective, but not operative, local ordinances;

Failure to participate in the consultation process or failure to take actions to meet the conditions of business licensing or land use permitting will result in notification of non-compliance to the State. Future eligibility for a local business license and land use permit, as well as, continued support for any required State license will require full compliance with local licensing and permitting requirements as may be amended by the Board following Coastal Commission requirements for certification or any other discretionary decision.

If the cannabis operator would not be in compliance, even later, the County would notify the State that they are not in compliance.

Staff has reviewed State statutes and the regulations published on November 16, 2017 by the three State licensing authorities and did not find any conflicts with the plan noted above.

Staff Recommendation. Staff recommends you receive this update, confirm the Board's direction, and direct staff to implement this process when the Board considers adoption of cannabis business licensing and land use permitting ordinances on approximately February 6, 2018.

I. Conceptual Licensing and Permitting Options – Receive an Update

Prior Board Discussion. On September 19, 2017, the Board of Supervisors discussed conceptual business licensing and land use permitting options for cannabis operations in Santa Barbara County. *The direction to the staff was to incorporate Board comments on conceptual licensing and land use options that were provided at the September 19, 2017 meeting and to return to the Board at the next scheduled update.* As discussed at that hearing, the Board retains the ability to regulate, limit or prohibit any or all commercial cannabis operations. After receiving the report and considering public testimony, some conceptual consensus emerged from the discussion, including allowing:

- Indoor and mixed light cultivator licenses on AG-I (Agriculture I) zoned parcels larger than seven acres with odor control and setbacks, and possibly requiring a Conditional Use Permit (CUP) to see if odor control works;
- Cultivator, distributor and manufacturer licenses on AG-II (Agricultural II) zoned parcels larger than 40 acres; and
- Manufacturer, testing and retail sales licenses on M-1 (Light Industry), M-2 (General Industry) and C-3 (General Commercial) zoned parcels, and possibly, C-1 (Limited Commercial) and C-2 (Retail Commercial).

The Board had conceptual consensus on not allowing cannabis consumption on site, microbusiness licenses or any licenses in Mixed Use zones. Attachment E summarizes the Board's direction from the deliberations on September 19, 2017.

The Board requested more information on Nursery and Microbusiness licenses. The Nursery license (Type 4) is intended for a commercial cannabis business that solely provides young plants (either clones or from seeds) for sale and planting elsewhere. The Microbusiness license (Type 12) would allow a licensee to grow a limited amount of cannabis (less than 10,000 square feet) and use non-volatile extraction equipment as well as distribute to other licensed retailers or conduct direct retail sales. The intent of this license type is to respond to the desire of some to support small-scale, vertically-integrated operations similar to micro-breweries or boutique wineries.

The County's Draft EIR has been completed and preparation of the Final EIR are underway. The Final EIR for amendments to the Zoning codes is scheduled for public hearing with the Montecito Planning Commission on January 3, 2018 and the County Planning Commission on January 10, 2018. Following that process, Planning and Development staff will return to the Board for approval of the land use ordinance, tentatively scheduled for February 2017.

Staff Recommendation. Staff recommends you receive this update. No further action is requested. Staff will return after the draft ordinance has been reviewed by the commissions described above.

Performance Measure:

Not applicable

Contract Renewals and Performance Outcomes:

Not applicable

Fiscal and Facilities Impacts:

Budgeted: Yes, as to staff time. There will be additional fiscal impacts depending on direction

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: Staff time and contracted services to support the development of possible regulations of the cannabis operations in unincorporated Santa Barbara County is included in the Fiscal Year 2017-18 Adopted Budget.

Key Contract Risks:

Not applicable

Staffing Impacts:

Legal Positions:

Not applicable

FTEs:

Special Instructions:

Attachments:

Attachment A – Fiscal Analysis of Commercial Cannabis Industry in Santa Barbara County – HdL Companies

Attachment B – Board Decision Matrix for Possible Cannabis Ballot Measure

Attachment C – Sample of Letter for State Temporary Licensing

Attachment D – Example of “Allowed Use” from Chapter 35 of the County Code

Attachment E - Conceptual Licensing and Permitting Discussion – Board of Supervisors Meeting of September 19, 2017

Attachment F – Updated Schedule of Cannabis Policy Discussions

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cc: