COUNTY OF SONOMA

575 ADMINISTRATION DRIVE, ROOM 102A
SANTA ROSA, CA 95403

APPROVED

DEC 17 2019

SUMMARY REPORT

THE WITHIN INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

ATTEST: DEC 17 2019

SHERYL BRATTON Clerk/Secretary
BY
DEPUTY CLERK/ASST. SECRETARY

Agenda Date: 12/17/2019 #43

To: Board of Supervisors
Department or Agency Name(s): Board of Supervisors, Cannabis Ad Hoc (James Gore and Lynda Hopkins)
Staff Name and Phone Number: Niki Berrocal, Deputy County Administrator, 707-565-2431
Vote Requirement: Majority
Supervisorial District(s): All

	AYE	NO
GORIN	✓	
RABBITT	ABSENT	
ZANE	✓	
GORE	✓	
HOPKINS	✓	

Title:
Cannabis Ad Hoc Recommendations

Recommended Action:

A) Receive update on the Cannabis Ad Hoc Committee and accept recommendations for program improvements.
B) Approve the Cannabis Ad Hoc Committee's request for the Board of Supervisors to exercise original jurisdiction for the following use permit applications:
UPC17-0072 2815 Leslie Rd., Santa Rosa (MWWS), UPC17-0037 6101 Cleland Ranch Rd., Santa Rosa (MWWS), UPC18-0001 885 Montgomery Rd, Sebastopol, UPC17-0026 841 Leslie Rd, Healdsburg, UPC17-0085 4050 Grange Rd., Santa Rosa, UPC17-0012 2211 London Ranch Rd., Glen Ellen , UPC17-0048 12201 Highway 12, Glen Ellen, UPC17-0065 3803 Matanzas Creek Ln, Santa Rosa, UPC18-0015 2870 Leslie Rd./8373 Singing Hills, Santa Rosa, UPC17-0041 2000 Los Alamos Rd, Santa Rosa, UPC17-0095 3215 Middle Two Rock Rd, Petaluma, UPC18-0037 2260 Los Alamos Rd, Santa Rosa, UPC17-0069 1478 Valley Ford Freestone, Bodega, UPC17-0018 6095 Bodega Ave, Petaluma, PLP17-0040 351 Trinity Rd, Glen Ellen, UPC19-0002 101 Trinity Rd, Glen Ellen, UPC17-0032 520 Stage Gulch Rd, #A, Petaluma, UPC18-0022 2401 River Rd, Windsor, UPC17-0031 4222 Browns Ln, Petaluma

Executive Summary:
As cannabis became legal at the State level starting with the 2015 medical cannabis legislation, the County began its work to implement a locally legislated complimentary ordinance to bring non-regulated grows (estimated to be approximately between 6,000 - 7,000 at the time) into the regulated market where applicants were in compliance with the State requirements and local business and environmental guidelines.

The County adopted updates to the existing cannabis ordinance. The updates came with the cost of perpetual alignment to changing State regulations. The County conducted environmental review in the Board adopted a negative declaration with the December 2016 ordinance.

This item is an update from the Cannabis Ad Hoc to the full Board providing staff policy direction and requesting that the Board take original jurisdiction over certain use permit applications.

Discussion:
In December 2016, the Board of Supervisors adopted a series of ordinances establishing Phase I of the Sonoma County Cannabis Program to permit and regulate the cannabis industry. Recognizing a continued

need for prioritization and leadership in this area, the Chair formed the current Cannabis Ad Hoc Committee on January 10, 2017. The primary purpose of the Ad Hoc is to ensure the successful implementation of the Sonoma County Cannabis Program that enables and incentivizes the industry to come into compliance while ensuring the interests of residents and the environment are protected. On April 10, 2018, the Board conducted a Cannabis Ordinance Study Session and adopted a Resolution of Intention to update the existing Cannabis Ordinances. The first phase of amendments to the Cannabis Land Use Ordinance was adopted on October 16, 2018. The Ad Hoc is ready to continue the next round of amendments.

Current Cannabis Program Status

As the County has continued to catch up to the State updates, confusion over definitions and the cannabis business community's ability to expand operations is stifling the industry in Sonoma County. This outcome is evident in the current cannabis sales tax collection for the unincorporated County with 10.6% less collection than the prior year and 34.2% less in cannabis business tax year over year. There are a few segments of the industry that are left behind currently due to the delay in the County's alignment with the State ordinance including delivery services and equity programs. The current ordinance as it stands doesn't support intended cultivation for mixed light, nor the current desire for dispensaries.

Some cannabis permit applications, the Penalty Relief Program, and the Cannabis Program in general have generated comments from some constituents. Staff responding to these requests estimate at least 20 hours weekly across departments for various Public Records Act requests, complaints, or inquiries.

The amount of time to process and make a final determination on a conditional use permit can be considerable. The department began accepting cannabis permit applications in July 2017 and many are still under review for a variety of reasons.

According to reports issued by the Community Advisory Group and a member survey conducted by the Sonoma Growers Alliance, the County has fallen short in bringing cannabis cultivators into the regulated market. This has raised or exacerbated issues related to safety, neighborhood compatibility, code enforcement, penalty relief, and appropriate fee, penalty, and tax structures.

Cannabis Ad Hoc Recommendations

The Ad Hoc recommends changes to staff approaches in the following areas: Penalty Relief, outdoor cultivation, original jurisdiction, code enforcement, and the timeline for these recommendations. These changes include an assessment of all remaining penalty relief applicants, process improvements to address the permit backlog, code enforcement shift, and updates to the ordinance toward ministerial permitting.

Penalty Relief:

The Ad Hoc recommends that the Cannabis Deputy County Administrator complete an assessment of each penalty relief applicant with the planner and other staff as appropriate to document status, path to hearing, outstanding issues and their resolution. The Ad Hoc additionally recommends that staff maintain

flexibility related to when applicants in the penalty relief program are able to amend their project and remain in the program regarding disaster relief or increasing neighborhood compatibility.

Outdoor Cultivation and Program Improvements:

To better facilitate cannabis cultivation, the Ad Hoc recommends that staff investigate restructuring the Cannabis Program so that cannabis cultivation may be allowed with a ministerial permit issued by the Agricultural Commissioner, while associated building permits would continue to be issued by Permit Sonoma.

To implement best practices and address the permit backlog, the "Cannabis Team", identified below will co -locate in a cannabis office that holds part-time, regular hours for all members of the public to access information, work on their permit applications, participate in trainings, and have access to dedicated planning staff.

a. County Administrator (policy, legislation, department coordination, training, penalty relief, disaster relief, equity)
b. Permit Sonoma (project review, comprehensive planning, code enforcement, fire permits)
c. Agriculture Commissioner (zoning permits/ministerial, canopy verification, track and trace enforcement)
d. Department of Health (environmental health)
e. Auditor-Controller-Treasurer-Tax Collector (tax collection, disaster relief)
f. County Counsel (land use, code enforcement)
g. Transportation and Public Works (traffic, daily trips, impacts, mitigations)
h. Parks (set back waivers, compatibility, and mitigations)

Dependent agencies include Sheriff, District Attorney, Economic Development Department, and PG&E. The Cannabis Team will design a program transition plan, managed by the County Administrator, for implementation once ordinance updates toward ministerial permitting are approved.

To keep momentum toward permitting, implement a 5-day response guideline for staff and applicants at each segment in the review process across all departments when feasible. Have assigned staff dedicate at least 50 - 75% (20 - 30 hours weekly) of their time toward implementation of the cannabis program. Positions could be time-limited but there is a need to assess core staff moving forward.

As the Ad Hoc is recommending that staff shift priorities from a countywide environmental impact review toward changes that do not require that level of environmental review, the Cannabis Ad Hoc recommends shifting the use for the appropriation made at FY 2019-20 budget hearings supporting a countywide environmental review in support of the recommended program improvements. Any one-time costs above current appropriations needed for these recommendations should be requested from the FY 2019 -20 County Administrator cannabis environmental impact review allocation of $750,000 as County Administrator requests with the consolidated budget adjustments for Board approval.

Original Jurisdiction:

In general, use permits are approved, conditionally approved, or denied by the Board of Zoning Adjustments. That decision is then subject to appeal to the Board of Supervisors. Alternatively, the Board of Supervisors may take original jurisdiction over any land use permit application pursuant to Sec. 26-92-155. Any member of Board of Supervisors may request that the Board take original jurisdiction, and the request need not state a reason for exercising original jurisdiction. To pass an action of original jurisdiction, a simple majority of the Board is needed. The Clerk of the Board has set aside special meeting dates on Mondays occurring throughout 2020 and 3 - 4 applicants from the list below will be scheduled for original jurisdiction per special meeting over this time. Other cannabis applications may be appealed and those appeals would be scheduled during these same special meeting dates also needing a simple Board majority. In accordance, the Ad Hoc requests that the Board exercise original jurisdiction over the following use permit applications:

UPC17-0072	2815 Leslie Rd., Santa Rosa (MWWS)
UPC17-0037	6101 Cleland Ranch Rd., Santa Rosa (MWWS)
UPC18-0001	885 Montgomery Rd, Sebastopol
UPC17-0026	841 Leslie Rd, Healdsburg
UPC17-0085	4050 Grange Rd., Santa Rosa
UPC17-0012	2211 London Ranch Rd., Glen Ellen
UPC17-0048	12201 Highway 12, Glen Ellen
UPC17-0065	3803 Matanzas Creek Ln, Santa Rosa
UPC18-0015	2870 Leslie Rd./8373 Singing Hills, Santa Rosa
UPC17-0041	2000 Los Alamos Rd, Santa Rosa
UPC17-0095	3215 Middle Two Rock Rd, Petaluma
UPC18-0037	2260 Los Alamos Rd, Santa Rosa
UPC17-0069	1478 Valley Ford Freestone, Bodega
UPC17-0018	6095 Bodega Ave, Petaluma
PLP17-0040	351 Trinity Rd, Glen Ellen
UPC19-0002	101 Trinity Rd, Glen Ellen
UPC17-0032	520 Stage Gulch Rd, #A, Petaluma
UPC17-0031	4222 Browns Ln, Petaluma
UPC18-0022	2401 River Rd, Windsor

Code Enforcement:

It is critical that code enforcement continue to educate cultivators as the County transitions into a regulated market. The Ad Hoc recommends that Permit Sonoma Code Enforcement will target the most egregious non-regulated grows while the Agriculture Commissioner handle those in the regulated market as the regulatory compliance arm of the State for licensed cultivators. Staff will include how and when code enforcement responsibilities will shift in the transition plan to be presented at a following Ad Hoc quarterly update.

Ordinance:

The Ad Hoc recommends that staff explore amending the Cannabis Land Use Ordinance to streamline

cannabis cultivation permitting, including expanding opportunities for ministerial cannabis permits. While the Board had previously provided direction to proceed with an environmental impact report, the Ad Hoc now recommends directing staff to investigate ordinance and program amendments that may not require that level of environmental review. In order to address concerns regarding the dispensary cap and market opportunities the Ad Hoc recommends that staff continue to explore updates to the dispensary ordinance.

Timeline:

The goal with penalty relief is to complete assessments by the end of March 2020, with hearings scheduled and date determined by June 30th, 2020.

To transition outdoor permitting to ministerial and shift to the Agriculture Commissioner, upon approval of this item staff will explore streamlining the issuance of cultivation permits including expanding opportunities for ministerial permits. The Ad Hoc will present the program transition plan at a following quarterly update.

The Cannabis Deputy County Administrator will work with the Clerk of the Board to schedule hearings for the use permit applications listed in this item for which the Board approves exercising original jurisdiction.

The timeline to transition the regulated market code enforcement to the Agricultural Commissioner and refocus Permit Sonoma to the non-regulated market and will follow the staff transition plan presented at a following quarterly update.

This report and recommended actions meet the charter of the Cannabis Ad Hoc to review the cannabis program and implement improvements. Additionally, to increase multi-jurisdiction coordination and enhance best practices, the Cannabis Ad Hoc and staff will actively participate in the Northern and Central County Cannabis Consortiums.

Prior Board Actions:

December 13, 2016: Final adoption of Cannabis Business Tax Ordinance and Cannabis Health Ordinance
December 20, 2016: Final adoption of Cannabis Land Use Ordinance
January 10, 2017: Cannabis Ad Hoc Committee formed
April 11, 2017: Approval of staffing and budgetary adjustments to implement the Cannabis Program, adoption of the 2017 Cannabis Ad Hoc Committee Charter, and approval of the Advisory Group Selection and Work Plan
July 18, 2017: Approval of the appointment of 20 members to serve on the Sonoma County Cannabis Advisory Group for a term of two years
September 12, 2017: Approval of a Resolution to modify and extend the Temporary Code Enforcement Penalty Relief Program for Land Use Permits for Cannabis Operations
April 10, 2018: Resolution of Intention to Update Existing Cannabis Ordinances
August 28, 2018: Final adoption of the Cannabis Business Tax and Health Ordinance amendments
October 16, 2018: Final adoption of Phase 1 of the updates to the Cannabis Land Use Ordinance

Agenda Date: 12/17/2019

FISCAL SUMMARY

Expenditures	**FY 19-20 Adopted**	**FY20-21 Projected**	**FY 21-22 Projected**
Budgeted Expenses	$750,000		
Additional Appropriation Requested			
Total Expenditures	**$750,000**		
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Cannabis Fund Balance	$750,000		
Contingencies			
Total Sources	**$750,000**		

Narrative Explanation of Fiscal Impacts:
There are no costs associated with this item at this time. Staff will return to the Board with one-time requests as needed to implement program improvements. It is anticipated that the $750,000 already set aside will be sufficient to cover the one-time requests associated to implement the program improvements.

Staffing Impacts:			
Position Title (Payroll Classification)	**Monthly Salary Range (A-I Step)**	**Additions (Number)**	**Deletions (Number)**

Narrative Explanation of Staffing Impacts (If Required):

Attachments:
Attachment A - PowerPoint

Related Items "On File" with the Clerk of the Board:
None