

**COUNTY OF SAN DIEGO  
BOARD OF SUPERVISORS - LAND USE  
WEDNESDAY, OCTOBER 26, 2022**

**MINUTE ORDER NO. 6**

**SUBJECT: NOTICED PUBLIC HEARING:  
MEASURES TO EXPLORE THE ESTABLISHMENT OF A  
CANNABIS LICENSING PROGRAM WITH OPTIONS FOR THE  
CANNABIS FACILITY OPERATION CERTIFICATE FEE  
(DISTRICTS: ALL)**

**OVERVIEW**

On January 27, 2021 (4), the Board of Supervisors (Board) directed the Chief Administrative Officer (CAO) to develop a Zoning Ordinance amendment allowing for a variety of cannabis uses. The Board also directed staff to develop a new cannabis permitting system to include elements prioritizing social equity, access, and business opportunities. These are the key elements of the Socially Equitable Cannabis Program (Program). As part of the program's development, Planning & Development Services (PDS) is scoping the license and permit program elements for this project. Developing the license and permit requirements for the Program will include robust stakeholder involvement as the effort moves forward.

Prior to initiation of the Program, there were five existing cannabis dispensaries operating in the unincorporated areas of the county. These five continue to operate today, and are the only dispensaries permitted to operate while the Program is developed. The San Diego County Sheriff's Department (Sheriff's Department) is currently the entity responsible for reviewing and processing operating licenses for these five dispensaries.

On May 24, 2022 (21), the Board directed the CAO to explore the transition of the cannabis licensing program for the existing five dispensaries from the Sheriff's Department to PDS Code Compliance and return to the Board with options for the Cannabis Facility Operation Certificate fee. Many other jurisdictions have made similar transitions or established new cannabis licensing programs housed within planning or development services departments to help address social equity concerns.

Based on this direction, staff completed an analysis and prepared options for Board consideration on the transition of the existing cannabis license program. No changes to the existing cannabis licensing program or regulations are proposed as part of the action. However, PDS will continue to work with stakeholders to develop the more comprehensive Socially Equitable Cannabis Program's licensing element, which may result in future regulatory code changes related to cannabis licenses. Today's actions do not restrict future decisions on the Program's licensing element.

Today's request is for the Board to provide direction on the transfer of the cannabis licensing program for the existing five dispensaries by selecting one of the following options:

Option 2A – Maintain existing cannabis licensing program managed by the Sheriff's Department.

OR

Option 2B – Transfer the cannabis licensing program to PDS.

If the Board selects Option 2B to transfer the cannabis licensing program to PDS, the Board is requested to provide direction on the following options:

Background checks:

Option 3A – Authorize Sheriff to conduct background checks and provide verification of license eligibility to PDS.

OR

Option 3B – Authorize PDS to conduct required background checks, necessitating approval of a resolution to facilitate PDS acquiring access to a background check system.

Safety, Security, and Compliance Inspections:

Option 4A – Authorize Sheriff to conduct necessary safety, security, and compliance inspections and provide verification of compliance to PDS.

OR

Option 4B – Authorize PDS to conduct necessary safety, security, and compliance inspections to ensure compliance with Regulatory Code requirements for cannabis facilities.

Transfer of the cannabis licensing program to PDS will require the adoption of the proposed ordinances. If the Board selects Option 2B to transfer the cannabis licensing program to PDS, the Board is requested to approve the first reading of the proposed ordinances on October 26, 2022. If approved, the ordinances will be brought back for adoption on November 16, 2022, and be effective 30 days after adoption.

Options 3A and 4A to retain aspects of the licensing program with the Sheriff would require a return to the Board to establish fees for cannabis licensing background checks (Option 3A) and/or security and compliance inspections (Option 4A).

## **RECOMMENDATION(S)**

### **CHIEF ADMINISTRATIVE OFFICER**

The Department of Planning & Development Services recommends that the Board of Supervisors on October 26, 2022, receive options and provide direction on the following:

1. Find the proposed actions are exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines because the proposed actions are administrative in nature, and there is no possibility the activity in question may have a significant effect on the environment.
2. Receive staff reports on options for the establishment of a cannabis licensing program to be managed by PDS and select either Option 2A or 2B.
  - A. **Maintain** the existing cannabis licensing program as managed by the Sheriff's Department.

OR

- B. **Authorize** the transfer of the cannabis licensing program to PDS. (Staff Recommendation)
- Set a hearing for November 16, 2022, for consideration and adoption of amendments to the SanDiego County Code of Regulatory Ordinances.
  - Approve the introduction, read the title, and waive further reading of the Ordinance entitled AN ORDINANCE AMENDING BUSINESS REGULATIONS, TITLE 2, DIVISION 1 OF THE SAN DIEGO COUNTY CODE TO ADD PLANNING & DEVELOPMENT SERVICES TO THE UNIFORM LICENSING PROCEDURE AND REMOVE THE SHERIFF’S DEPARTMENT FROM THE CANNABIS LICENSING REGULATIONS (Attachment A)
  - Approve the introduction, read the title, and waive further reading of the Ordinance entitled: AN ORDINANCE AMENDING ARTICLE XX, SECTION 362.1 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE TO INCLUDE TO CANNABIS FACILITY OPERATIONS LICENSING FEE (Attachment E, G, or I depending on the option selected).
  - Find that the adjustments in fees and charges contained in the subsequent Fiscal Impact Statement of this letter are necessary to meet the operating expenses beginning in the Fiscal year 2022-2023.
  - Codify the Administrative Code to include licensing fees for PDS as the licensing entity.

If 2B is selected to *Authorize the transfer of the cannabis licensing program to PDS*, then provide direction on the following Cannabis Licensing Elements options below:

3. Background Checks:

- 3A. Authorize Sheriff to conduct background checks and provide verification of license eligibility to PDS.

OR

- 3B. Authorize PDS to conduct required background checks. (Staff Recommendation) Adopt a Resolution entitled: [A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING ACCESS TO STATE AND FEDERAL CRIMINAL HISTORY INFORMATION FOR CANNABIS LICENSING FOR THE DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES CODE COMPLIANCE DIVISION].

4. Safety and Security Inspections:

- 4A. Authorize Sheriff to conduct necessary safety and security inspections and provide verification of compliance to PDS.

OR

- 4B. Authorize PDS to conduct necessary safety and security inspections to ensure compliance with Regulatory Code requirements for cannabis facilities. (Staff Recommendation)

If, on October 26, 2022, the Board takes the actions recommended in items 2B, then on November 16, 2022:

1. Consider and adopt the Form of Ordinance entitled: AN ORDINANCE AMENDING BUSINESS REGULATIONS, TITLE 2, DIVISION 1 OF THE SAN DIEGO COUNTY CODE TO ADD PLANNING & DEVELOPMENT SERVICES TO THE UNIFORM LICENSING PROCEDURE AND REMOVE THE SHERIFF'S DEPARTMENT FROM THE CANNABIS LICENSING REGULATIONS (Attachment A).
2. Consider and adopt the Form of Ordinance entitled: AN ORDINANCE AMENDING ARTICLE XX, SECTION 362.1 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE TO INCLUDE CANNABIS FACILITY OPERATIONS LICENSING FEES (Attachment E, G, or I depending on the option selected).

### **EQUITY IMPACT STATEMENT**

During previous Board hearings, public comment related to the development of the Socially Equitable Cannabis Program has included concern over the involvement of law enforcement in the current cannabis licensing program. Since April 2021, the Office of Equity and Racial Justice (OERJ) and consultants performing work related to a Social Equity Assessment and Program have held several listening sessions to solicit community stakeholder feedback. During these sessions, stakeholders have also expressed concern about the use of law enforcement for cannabis licensing. If staff's recommendation is approved, today's proposed action would help to address those concerns and establish an equitable cannabis licensing system within the County of San Diego.

### **SUSTAINABILITY IMPACT STATEMENT**

The proposed action to transition cannabis licensing from the Sheriff to Planning & Development Services aligns with the County of San Diego sustainability goal to provide just and equitable access as well as to protect health and wellbeing. This action will align with the goals for the future licensing component of the Socially Equitable Cannabis Program to be operated in an equitable way recognizing the impact to communities and socio-economic groups historically burdened by mass incarceration. This concept will be further explored within the Social Equity Assessment and Program. The proposed action will also serve to protect the health and wellbeing of the public by ensuring access to safe cannabis products and retail cannabis facilities. If the cannabis license program is transferred to PDS, PDS inspection staff are routinely in the community and expect reduced vehicle miles traveled to conduct inspections.

### **FISCAL IMPACT**

Funds for this request, recommended actions 1, 2, and 3, are included in the Fiscal Year 2022-23 Operational Plan for Planning & Development Services and Sheriff's Department, dependent on recommendation selected. The following Fiscal Year cost and revenue estimates are based on the annual licensing fees for all five existing dispensaries. If Option 2A is selected and approved, the request will result in current year cost and revenue estimates of \$247,300 to the Sheriff's Department in the Fiscal Year 2022-23. If Option 2B is selected and approved, the request will result in current year cost and revenue estimates of \$83,365 to PDS in the Fiscal Year 2022-23. If Option 3A is selected and approved, the request will result in current year cost and revenue estimates of \$79,845 to PDS in the Fiscal Year 2022-23. If Option 3B is selected and approved, the request will result in current year cost and revenue estimates of \$83,365 to PDS in the Fiscal Year 2022-23. If option 4A is selected and approved, the request will result in current year cost and revenue estimates of \$24,785 to PDS in the Fiscal Year 2022-23. If Option 4B is selected and approved, the request will result in current year cost and revenue

estimates of \$83,365 to PDS in the Fiscal Year 2022-23, which would be the same as Options 2B and 3B. A determination of the cost and revenue estimates for Fiscal Year 2022-23 for the Sheriff's Department will be necessary if Options 3A or 4A are selected, which will require further review and a return to the Board at a later date. The future return will include proposed fees for the Sheriff's licensing elements for Options 3A or 4A. The funding source for all options is licensing fees paid by the Cannabis License holder. There will be no change in net General Fund costs and no additional staff years.

Board Policy B-29: *Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery* (Board Policy B-29) would apply to PDS licensing activities, and a waiver is not proposed. In order to maintain full cost recovery, the fees will be reviewed and adjusted annually based on approved hourly rates as part of the Land Development Cost Recovery package.

The Auditor and Controller has reviewed and approved the methodology and supporting documentation used to determine the proposed hourly rates, fees, and deposits in this proposal. The Auditor and Controller found that the methodology used is consistent with Board Policy B-29 and in conformance with existing cost policies and procedures.

Table 1 below provides a summary of the total costs for the Sheriff's Department and PDS as well as the total fee for cannabis license renewal that would result from the various options presented in this Board letter.

**TABLE 1 – Department Costs and Total Fee for Cannabis Licensing Renewals**

<i>Option</i>	<i>PDS Cost</i>	<i>SDSO Cost</i>	<i>Total Fee</i>
2A	N/A	\$49,460.00	\$49,460.00
2B	\$16,673.00	N/A	\$16,673.00
3A	\$15,969.00	TBD (need SDSO cost)	TBD (need SDSO cost)
3B	\$16,673.00	N/A	\$16,673.00
4A	\$4,957.00	TBD (need SDSO cost)	TBD (need SDSO cost)
4B	\$16,673.00	N/A	\$16,673.00

**BUSINESS IMPACT STATEMENT**

If approved by the Board of Supervisors, the ordinance and regulatory code amendments will continue to facilitate the ongoing operation and expansion of the five existing dispensaries in the unincorporated area. Therefore, the ordinance and regulatory code amendments will maintain jobs offered by the five dispensaries.

**ACTION:**

ON MOTION of Supervisor Fletcher, seconded by Supervisor Vargas, the Board of Supervisors took the following actions:

1. Found the proposed actions are exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines because the proposed actions are administrative in nature, and there is no possibility the activity in question may have a significant effect on the environment.
2. Received staff reports on options for the establishment of a cannabis licensing program to be managed by PDS and selected Option 2B.

B. Authorized the transfer of the cannabis licensing program to PDS.

- Set a hearing for November 16, 2022, for consideration and adoption of amendments to the San Diego County Code of Regulatory Ordinances.
- Approved the introduction, read the title, and waive further reading of the Ordinance entitled AN ORDINANCE AMENDING BUSINESS REGULATIONS, TITLE 2, DIVISION 1 OF THE SAN DIEGO COUNTY CODE TO ADD PLANNING & DEVELOPMENT SERVICES TO THE UNIFORM LICENSING PROCEDURE AND REMOVE THE SHERIFF'S DEPARTMENT FROM THE CANNABIS LICENSING REGULATIONS (Attachment A)
- Approved the introduction, read the title, and waive further reading of the Ordinance entitled: AN ORDINANCE AMENDING ARTICLE XX, SECTION 362.1 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE TO INCLUDE TO CANNABIS FACILITY OPERATIONS LICENSING FEE (Attachment E).
- Found that the adjustments in fees and charges contained in the subsequent Fiscal Impact Statement of this letter are necessary to meet the operating expenses beginning in the Fiscal year 2022-2023.
- Codified the Administrative Code to include licensing fees for PDS as the licensing entity.

Provided direction on the following Cannabis Licensing Elements by selecting options 3B and 4B:

3. Background Checks:

3B. Authorized PDS to conduct required background checks.

Adopted Resolution No. 22-156 entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING ACCESS TO STATE AND FEDERAL CRIMINAL HISTORY INFORMATION FOR CANNABIS LICENSING FOR THE DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES CODE COMPLIANCE DIVISION.

4. Safety and Security Inspections:

4B. Authorized PDS to conduct necessary safety and security inspections to ensure compliance with Regulatory Code requirements for cannabis facilities.

5. Took action to further consider and adopt the Ordinances on November 16, 2022.

AN ORDINANCE AMENDING BUSINESS REGULATIONS, TITLE 2, DIVISION 1 OF THE SAN DIEGO COUNTY CODE TO ADD PLANNING & DEVELOPMENT SERVICES TO THE UNIFORM LICENSING PROCEDURE AND REMOVE THE SHERIFF'S DEPARTMENT FROM THE CANNABIS LICENSING REGULATIONS; and,

AN ORDINANCE AMENDING ARTICLE XX, SECTION 362.1 OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE TO INCLUDE CANNABIS FACILITY OPERATIONS LICENSING FEES.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

State of California)  
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER  
Clerk of the Board of Supervisors



**Signed**  
by Andrew Potter