

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS - LAND USE
WEDNESDAY, NOVEMBER 16, 2022**

MINUTE ORDER NO. 1

**SUBJECT: SECOND CONSIDERATION AND ADOPTION OF ORDINANCES:
MEASURES TO EXPLORE THE ESTABLISHMENT OF A CANNABIS
LICENSING PROGRAM WITH OPTIONS FOR THE CANNABIS
FACILITY OPERATION CERTIFICATE FEE (10/26/2022 - First Hearing;
11/16/2022 - Second Hearing) (DISTRICTS: ALL)**

OVERVIEW

On October 26, 2022 (06), the Board of Supervisors took action to further consider and adopt the Ordinances on November 16, 2022.

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 a 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

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)

3. For licensees that have paid the current Medical Marijuana Operation Certificate annual fee in Regulatory Code section 21.1901 for the current year, authorize the Sheriff to refund to the existing licensees on January 1, 2023, the difference in amount between the fee paid for this year and the new Cannabis Facility Operating Certificate annual renewal fee (approved today), prorated for the period between enactment of the new fee and expiration of the annual fee period.

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's Department 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 2, 3, and 4, 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.

If the Board authorizes the Sheriff to refund prorated annual renewal fees previously paid by cannabis facility operations, the request will result in current year cost estimates of \$124,801.81 to the Sheriff’s Department in the Fiscal Year 2022-23. To continue routine safety and security inspections for the remainder of the annual fee period for each licensee part of those refunds would be redirected to PDS resulting in current year cost and revenue estimates of \$41,294.22 to PDS. Total refunds to the five existing licensees would total \$81,203.97. 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>	<i>Annual SDSO Cost</i>	<i>Annual PDS Cost</i>
2A	N/A	\$49,460.00	\$49,460.00	\$247,300.00	N/A
2B	\$16,673.00	N/A	\$16,673.00	N/A	\$83,365.00
3A	\$15,969.00	TBD (need SDSO cost)	TBD (need SDSO cost)	TBD (need SDSO cost)	\$79,845.00
3B	\$16,673.00	N/A	\$16,673.00	N/A	\$83,365.00
4A	\$4,957.00	TBD (need SDSO cost)	TBD (need SDSO cost)	TBD (need SDSO cost)	\$24,785.00
4B	\$16,673.00	N/A	\$16,673.00	N/A	\$83,365.00

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 Desmond, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent, adopting Ordinance No. 10812 (N.S.), entitled: AN ORDINANCE AMENDING BUSINESS REGULATIONS, TITLE 2, DIVISION 1 OF THE SAN DIEGO COUNTY CODE TO ADD PLANNING AND DEVELOPMENT SERVICES TO THE UNIFORM LICENSING PROCEDURE AND REMOVE THE SHERIFF'S DEPARTMENT FROM THE CANNABIS LICENSING REGULATIONS DATED OCTOBER 26, 2022 ORDINANCE; and, Ordinance No. 10813 (N.S.), entitled: AN ORDINANCE AMENDING ARTICLE XX, SECTION 362.1, OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE TO INCLUDE CANNABIS FACILITY OPERATIONS LICENSING FEES.

AYES: Anderson, Fletcher, Desmond

ABSENT: Vargas, Lawson-Remer

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