



Claremont City Council

Agenda Report

File #: 4228

Item No: 13.

TO: ADAM PIRRIE, CITY MANAGER

FROM: BRAD JOHNSON, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 24, 2022

Reviewed by:
City Manager: AP

SUBJECT:

COMMERCIAL CANNABIS SURVEY AND COMMUNITY WORKSHOP FINDINGS (FUNDING SOURCE: GENERAL FUND)

SUMMARY

California's history of cannabis law spans nearly 25 years of propositions and regulatory actions. The Claremont City Council first adopted a ban on commercial cannabis businesses in 2006. On October 9, 2015, Governor Jerry Brown signed the Medical Marijuana Regulation and Safety Act ("MMRSA"), which generally authorized local agencies to allow and regulate cannabis businesses. On January 19, 2016, the City Council adopted an ordinance to clarify that, notwithstanding the newly adopted MMRSA, the City's preexisting ban on cannabis businesses continued to prohibit cannabis dispensaries, cultivation, and delivery services in the City. Proposition 64, the Adult Use of Marijuana Act ("AUMA"), was adopted by California voters on November 8, 2016. The AUMA immediately legalized possession, transport, purchase, use, and transfer of recreational marijuana for individuals 21 years of age or older. Beginning in January of 2018, the AUMA also established a State regulatory and licensing program for nonmedical commercial cannabis cultivation, testing, distribution, and manufacturing.

Proposition 64 stipulated that if a city did not enact local cannabis commercial licensing restrictions or a ban by January 1, 2018, commercial cannabis businesses could operate with a valid State license. Therefore, until local regulations and interests could be analyzed and identified for implementation, the City of Claremont adopted ordinances to regulate the personal use and cultivation of cannabis and restrict commercial cannabis activities in the City.

On October 11, 2016, the City Council adopted Ordinance No. 2016-11 prohibiting commercial cannabis operations, including retail dispensaries, cultivation, and manufacturing facilities, as well as delivery services within the City. While Proposition 64 allows cities to ban these commercial enterprises, it is important to note that cities cannot prohibit personal cultivation of six plants or fewer for personal use. Cities also cannot prohibit deliveries from other municipalities' cannabis retail locations to their residents. Any restriction on individual adults from possessing or purchasing certain

amounts of cannabis or cannabis products for personal use is unenforceable under AUMA. On February 12, 2019, the City Council adopted Ordinance No. 2019-01 to reaffirm the cannabis ban.

On January 26, 2021, the City Council requested staff engage the community in a discussion on the consideration of cannabis regulations. The City engaged the services of HdL Companies to assist as a consultant in the community outreach process. In March 2022, staff held two virtual cannabis community workshops. During the workshops, staff and the City's consultant gave an overview of the history of cannabis laws and regulations. At the end of the meeting, the participants were given the opportunity to share their questions or concerns.

Additionally, the City issued an online community survey to receive input from the public regarding potential cannabis regulations. The survey was opened on Monday, March 21, 2022, and made available for three weeks through April 11, 2022. The results of the survey were used to compile the attached report (Attachment A), which includes the consultant's recommendations.

A copy of the community survey results is included as an attachment (Attachment B) to this report.

RECOMMENDATION

Staff recommends that the City Council:

- A. Receive a presentation providing an overview of the cannabis online survey results and ask any clarifying questions; and
- B. Direct staff to prepare a draft cannabis tax ordinance, which would need to be approved by voters through a ballot measure. On its own, a cannabis tax ordinance would not allow any cannabis businesses to operate in Claremont. The cannabis tax ordinance would merely authorize the City to tax cannabis businesses if they are permitted in the future.

ALTERNATIVES TO RECOMMENDATION

In addition to the staff recommendation, there are the following alternatives:

- A. Request additional information from staff.
- B. Direct staff to conduct additional community outreach.
- C. Direct staff to prepare the regulatory zoning framework prior to consideration of a cannabis tax ballot measure.
- D. Direct staff to continue to enforce the existing prohibition on commercial cannabis operations in Claremont.

FINANCIAL REVIEW

If the City Council proceeds with a cannabis-related business tax ballot measure, the full costs of placing the measure on the ballot would be borne by the City. The cost of submitting the measure to voters at the election on November 8, 2022, is estimated to be \$44,000.

The cost to prepare this report and administer the cannabis community outreach is estimated at \$11,500, which includes the contract with HdL Companies and staff time. This cost is included in the operating budget of the Community Development Department.

ANALYSIS

On March 26 and 30, 2022, the City held cannabis regulation community workshops. During these workshops, staff and the consultant gave a comprehensive overview of California's cannabis history and regulations. These meetings had a combined attendance of over fifty attendees, and out of those, eleven attendees made comments. The comments were mostly favorable towards allowing cannabis retail stores in Claremont. The participants raised concerns regarding social equity, public safety, and the potential locations of cannabis retail stores. During the workshops, attendees were directed to the online cannabis survey to share more details about their opinions on potential commercial cannabis regulations for the City of Claremont.

The commercial cannabis survey was developed in collaboration with the City's consultant, HdL Companies, due to their experience conducting cannabis outreach and education in other municipalities. The survey was comprised of extensive questions to provide the City Council with the community's opinions on the different types of cannabis businesses and regulations, as well as available taxation options. The consultant has analyzed the cannabis survey responses and compiled them into the attached report (Attachment A). The survey analysis finds that there is strong support among residents for medicinal and adult use cannabis generally, but a lesser level of support for allowing such businesses within the City. The level of support varies significantly for each type of commercial cannabis business. Respondents showed the greatest level of support (at or above 55 percent) for cannabis retailers and distributors, as well as testing laboratories. Respondents were more favorable to non-storefront retailers which would only offer delivery services, with these businesses receiving more than 55 percent support.

Respondents showed marginal support for some types of cannabis manufacturers and cultivators, but less than 50 percent support for others. Cannabis manufacturing involves a variety of processes to create a wide range of product types, including edibles, tinctures, (non-alcoholic) drinks, gummies, salves, and concentrates for smoking or vaping. These products are commonly made using concentrated cannabis oil or resin, which can be extracted using either volatile solvents (like butane) or non-volatile solvents (like carbon dioxide). Manufacturing businesses that utilize volatile solvents were strongly opposed, while those that used non-volatile solvents and methods received about 50 percent support. Commercial cannabis cultivation received similar support with less than 50 percent of respondents supporting those businesses.

Respondents showed strong support in taxing all cannabis-related businesses if they were permitted within the City, with over 70 percent selecting either strongly or somewhat support. Should the City Council direct staff to prepare a draft cannabis tax ordinance, a full cannabis tax analysis and presentation will be prepared and presented prior to the City Council authorizing the placement of a cannabis tax measure on the ballot. The survey also provided numerous questions about where cannabis businesses might be located, the number of businesses to be allowed, application processes, how cannabis revenues should be spent, and other issues that may be of interest to the City Council.

In the City of Claremont, 59 percent of voters were in favor of Proposition 64. Although Proposition 64 represented the interest of whether to allow the Adult Use of Marijuana Act, it did not specify how an individual municipality would regulate the commercial aspects of cannabis sales. The State's commercial provisions of AUMA were to take effect on January 1, 2018, requiring a city to prohibit commercial cannabis activities to ensure that local control was maintained. Since that time, many California cities have allowed cannabis-related businesses to operate, and have done so typically within the confines established in their respective municipal codes. In addition, many have enacted

business taxes on these operations that are used to pay for core municipal services such as, public safety, homeless community outreach, road maintenance and improvements, and senior and youth programs.

Since the City's ban on cannabis, staff has monitored the development of cannabis regulations in the State and in the surrounding area. Staff believes that if the City Council decides to move forward with regulating commercial cannabis activities, there are sufficient best practices to be followed. Additionally, in response to many local governments' resistance to taking action to allow cannabis businesses in their jurisdiction, there has been an increase in citizen-sponsored initiative petitions (i.e., ballot measures) asking voters to approve cannabis businesses and related local regulations.

In many cities including Hermosa Beach, El Segundo, Dana Point, and Redondo Beach, citizen-sponsored initiative petitions have been submitted to alter cannabis regulations and establish cannabis-related business taxes. In many cases, these initiatives have included regulations that heavily favor certain types of cannabis business operators, and limit local control over the businesses that can be established. The City can avoid the potentially negative consequences that could result from regulations imposed by a citizen-sponsored initiative by working to develop its own regulatory framework, one that addresses all of the City's concerns with regard to the selection, location, operation and taxation of commercial cannabis businesses. Citizen-sponsored initiatives have generally allowed for a higher number of cannabis businesses to be allowed, as well as less restrictive buffer zones by only following the State minimum, which allows businesses to be located closer to schools and other sensitive areas. For example, in 2020 a Pomona citizen-sponsored initiative allowed for eight businesses, a buffer zone of 600 feet, and the consumption of cannabis products on-site. The City of Pomona's competing initiative allowed for one location per 25,000 residents or about six cannabis retail businesses, a buffer zone of 1,000 feet, and prohibited consumption of cannabis products on-site.

By ensuring the cannabis business regulations remain under local control, the City Council may enact additional requirements on the cannabis businesses that go beyond the minimum State regulations seen in citizen-sponsored initiatives. These cannabis business regulations include, but are not limited to, increasing the buffer zone around sensitive areas and residential zones, limiting the businesses' hours of operations, requiring additional security measures, and establishing selection processes for cannabis business operators.

Should the City Council take action to remove the current cannabis-related business prohibition, and to avoid a more costly special election in the event of a citizen-sponsored initiative petition, staff recommends that a cannabis-related business tax measure be placed on the November 8, 2022 General Municipal Election ballot. This approach, if approved by a majority of the voters, will provide the opportunity for the City to develop a regulatory framework for cannabis-related businesses to operate in Claremont. A City Council-sponsored ballot measure will also allow the City Council to maintain local control should State or Federal law ever change with respect to cannabis-related businesses.

In the event of a special election resulting from a citizen-sponsored initiative petition, staff has estimated the cost to be \$140,000. Additionally, while the survey respondents' support for cannabis businesses varied, respondents were over 70 percent in support of taxing these businesses if they are allowed within the City. Due to the limited timeline to add the commercial cannabis tax to the November 2022 ballot, and the potential of a citizen-sponsored cannabis initiative, staff recommends the City Council direct staff to present a draft ballot measure for City Council consideration. This tax measure would have no direct impact on whether the City allows cannabis businesses. Instead, if

approved, it would ensure the tax framework is in place while the City Council decides whether and how to allow commercial cannabis businesses in the City in the future.

RELATIONSHIP TO CITY PLANNING DOCUMENTS

Staff has evaluated the agenda item in relationship to the City's strategic and visioning documents and finds that it applies to the following City Planning Documents: Council Priorities, Economic Sustainability Plan, General Plan, 2021-22 Budget.

CEQA REVIEW

This item is not subject to environmental review under the California Environmental Quality Act (CEQA). Under CEQA Guidelines Section 15378(b)(5), continued administrative activities and organization activities that will not result in a direct or indirect physical change in the environment are not CEQA projects.

Even if this item were a "project," it would be exempt from environmental review under CEQA Guidelines Section 15061(b)(3)'s "general rule" that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Here, it can be seen with certainty that there is no possibility that this item, in and of itself, will have a significant effect on the environment. On its own, this action will not result in any physical changes to the environment.

PUBLIC NOTICE PROCESS

The agenda and staff report for this item have been posted on the City website and distributed to interested parties. If you desire a copy, please contact the City Clerk's Office.

Submitted by:

Brad Johnson
Community Development Director

Prepared by:

Alex Cousins
Management Analyst

Attachments:

- A - City of Claremont Survey Analysis
- B - Commercial Cannabis Survey Results