

STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MATTHEW BRONSON, CITY MANAGER  
MARTIN KOCZANOWICZ, CITY ATTORNEY  
JOHN PETERS, POLICE CHIEF  
BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: REQUEST FOR DIRECTION ON DRAFTING AN ORDINANCE TO REGULATE COMMERCIAL MEDICAL MARIJUANA USES

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**BACKGROUND**

Staff has recently received four applications requesting a Municipal Code Amendment to permit several activities related to medical marijuana. In January 2016, the Council amended the existing ordinance that prohibits medical marijuana dispensaries and commercial cultivation. However, at that time the Council indicated a willingness to consider a future amendment that could allow for medical marijuana dispensaries and commercial cultivation. The Council subsequently added an item to the Fiscal Year 2017 City Council Goals and Work Program to "consider zoning and taxing options for medical marijuana businesses within the City."

Prior to proceeding with this work program item, staff is requesting the Council provide direction on whether to proceed with regulating medical marijuana uses, and if directed to proceed, the process and timing of moving forward. In order to assist the Council, staff has provided an update on this issue and overview of the process to prepare a draft regulatory ordinance and tax ordinance. The primary intent of this staff report is to inform the Council of the proposals received to date and have a general discussion on how to proceed, if the Council elects to do so.

**DISCUSSION**

City staff has met with several groups interested in amending the Municipal Code to allow medical marijuana dispensaries, commercial cultivation, level one manufacturing of cannabis products, laboratory testing, and mobile delivery. To date, staff has received four applications (no fees have been submitted with the applications) requesting Municipal Code amendments as follows (please refer to Attachments 1-4 for further details):

- The Monarch – proposal to operate a dispensary, indoor cultivation, laboratory testing, level one manufacturing, and mobile delivery.

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APPROVED FOR FORWARDING

  
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MATTHEW BRONSON  
CITY MANAGER

Please Review for the Possibility of a Potential Conflict of Interest:

- None Identified by Staff     Bright  
 Shoals     Nicolls  
 Lee     Shah

Meeting Date: July 5, 2016

Agenda Item No. 12

- Beachside Health & Wellness Center – proposal to operate a dispensary and mobile delivery.
- Point Bay Distributors – Proposal for level one manufacturing, distribution and laboratory testing.
- Elite Care – Proposal to operate a dispensary and mobile delivery.

The process of preparing a draft ordinance to regulate commercial medical marijuana uses would likely include the following steps:

- Community workshop to allow public input on the topic of medical marijuana uses. Staff would also identify potential issues related to medical marijuana uses. Holding such a workshop is an optional step or could be combined with the next step.
- Council meeting to provide direction to staff on the location, types of uses, limitations on commercial uses (e.g., could allow dispensaries, but limit the number of businesses and/or require a minimum distance between businesses), personal cultivation in a commercial zone as part of a cooperative, etc.
- Council meeting to review a draft outline of an ordinance based on this input received from the Council and provide Council direction to assist staff in drafting the ordinance and provide guidance to the Planning Commission as part of its review.
- Staff would draft an ordinance and prepare an Initial Study as required by the California Environmental Quality Act (CEQA). The appropriate environmental document would be prepared Code Amendment would likely result in a Mitigated Negative Declaration.
- Planning Commission public hearing to provide a recommendation to the City Council.
- City Council public hearing to consider the first reading of the ordinance.
- City Council public hearing to adopt the ordinance.
- Ordinance would take effect 30 days following the adoption of the ordinance.

Staff would not review and process development permit applications for any medical marijuana uses until adoption of the ordinance by the City Council. The above process is estimated to take approximately six months.

The process of discussing the taxation of medical marijuana uses could occur concurrently with the land use and regulatory process described above. Several cities including Santa Cruz, San Jose, Palm Springs, Oakland, and Sacramento have approved tax measures and the cities of Santa Barbara and King City will have tax measures on the November 2016 ballot. However, any proposed tax would require placement on a general election ballot. The next general election is November 2016 followed by the November 2018 election. In order for the City to place a measure on the November 2016 ballot, City staff must prepare a resolution and draft ordinance and Council must adopt the resolution containing the proposed ordinance for taxation and forward to the County for placement on the ballot by August 12, 2016. Based on the short timeframe, Council would need to make an immediate decision to move forward with such a measure and adopt the resolution at the August 1, 2016 Council meeting.

Lastly, the Community Development Department currently has a significant workload of Council work program items and other tasks that are either ongoing or need to be completed within FY 17. Based on current staffing levels in the department, the preparation of a medical marijuana ordinance could delay implementation of other Council work program items such as a vacation rental ordinance and sign ordinance amendments. If the Council elects to proceed with a medical marijuana ordinance, staff would recommend returning to the Council with more information about the timing of other Community Development work program items and potential resource needs.

## **ALTERNATIVES**

The Council has the following alternatives to consider:

1. Identify that drafting a regulatory medical marijuana ordinance and/or tax ordinance is an immediate priority and direct staff to start the process of preparing a draft ordinance(s) as outlined above or as modified by Council; or
2. Identify that drafting a regulatory medical marijuana ordinance and/or tax ordinance is important, but delay discussion until after the November 2016 election to determine the outcome of the ballot initiative for legalization of recreational marijuana use; or
3. Identify that drafting a regulatory medical marijuana ordinance and/or tax ordinance is not a priority and table indefinitely; or
4. Direct staff to schedule a public workshop to receive community input prior to making a decision on whether to proceed with a draft ordinance; or
5. Provide alternative direction to staff.

In addition, if the Council elects to move forward with preparing an ordinance for taxation, direction should be provided to staff on the content and timing of a ballot measure and whether the measure is limited to taxing medical marijuana or also include the ability to tax recreational sales of marijuana, if adopted by State voters in November 2016.

## **RECOMMENDATION**

It is recommended that the Council provide requested direction to staff.

## **FISCAL IMPACT**

If the Council directs staff to draft an ordinance regulating medical marijuana dispensaries, cultivation, manufacturing/testing, and mobile delivery it would have an impact on staff resources. Staff estimates the staff time spent drafting and adopting an ordinance would be 200-300 hours, which would primarily involve the City Attorney, Police Chief, and Community Development Director. There would also be direct costs for the City Attorney's time, estimated at \$10,000, and a consultant to prepare the CEQA document, estimated at \$20,000. The total estimated costs of \$30,000 to draft an ordinance are not included in the FY 17 Budget and would need to be funded through General Fund reserves or another funding source.

If the Council elects to place a tax ordinance, the estimated cost for placement of a ballot measure on the November 2016 ballot is \$15,000. The City Attorney's time is estimated at \$10,000 to draft the ballot measure, prepare the City Attorney's Impartial Analysis and any arguments/rebuttals filed for or against the proposed measure. The total estimated costs of \$25,000 to draft a tax ordinance are not included in the FY 17 Budget and would also need to be funded through General Fund reserves or another funding source.

Another option for Council consideration would be for the applicants to fund all or a portion of the direct costs and/or staff time to draft the ordinance. This would still require the same amount of staff time, but the City would be reimbursed by the applicants for all or a portion of the costs associated with the regulatory ordinance and/or ballot measure.

The ability of the City to tax the manufacturing or sale of medical marijuana products requires approval by a majority vote of Grover Beach voters. At such time a ballot measure was approved, the City would receive increased revenues based on the amount of the tax and the

number of businesses operating within the City. The State is in the process of establishing its own tax that would not be shared with local agencies. In meetings with the applicants, they have indicated support for local taxation, but expressed concerns that over taxation could be detrimental to sales.

The adoption of a medical marijuana ordinance would allow the City to charge a fee for all staff time spent on future development applications, background checks, facility inspections, and all other time spent by staff related to enforcing the adopted ordinance. This is no different than any other development application where the City can charge a fee that is reasonably related to time spent on the project.

### **PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act. A copy of the agenda and staff report were sent to representatives of all four applicants.

### **ATTACHMENTS**

1. Proposal from The Monarch
2. Proposal from Beachside Health & Wellness Center
3. Proposal from Point Bay Distributors
4. Proposal from Elite Care