



COUNTY OF HUMBOLDT

For the meeting of: 10/5/2021

File #: 21-1443

To: Board of Supervisors

From: Planning and Building Department Cannabis Ad Hoc Committee

Agenda Section: Departmental (Cannabis Ad Hoc)

SUBJECT:

Recommendations from the Cannabis Ad Hoc Committee addressing needs of the Cannabis Industry

RECOMMENDATION(S):

That the Board of Supervisors:

1. Direct the Treasurer-Tax Collector to not assess fees for late payment of October 2021 excise taxes and April 2022 payment of excise taxes if all taxes are paid by May 31, 2022.
2. Direct staff to develop options to provide tax incentives for water storage, solar power installation and road improvements which minimize sedimentation of streams.
3. Authorize the Chair to sign a letter to the state advocating regulatory changes to allow licensed cultivators to keep their license active and reduce their cultivation area with a corresponding reduction in state fees and taxes.

SOURCE OF FUNDING:

Preparation of this report comes out of the Planning and Building Department Budget Unit 268.

DISCUSSION:

This report from the Ad Hoc committee seeks Board direction on actions which will put into motion actions to provide immediate relief from the condition of the cannabis market, initiate work on tax incentives to encourage water storage, switch to use of renewable power and to address sedimentation from roadways and direct that a letter be written asking the state to follow Humboldt County's model of allowing reductions in cultivation area and corresponding reduction in fees and tax obligations.

The current state of the cannabis community is characterized by prices below a sustainable level and the inability for many to move their product. At a meeting with the Ad Hoc Committee, 3 weeks ago several cultivators stated they will not be able to pay their Measure S taxes and will not be able to comply with their conditions of approval.

In bringing this forward, the Ad Hoc Committee seeks to be responsive to stated needs and help

stabilize the industry during this very difficult time. The primary expressed concerns relative to the county is the inability to pay Measure S taxes, the inability to pay invoices from the Planning and Building Department and the inability to install improvements required by signed compliance agreements.

It is unfortunate timing that at the time when market conditions are most difficult, the Planning and Building Department has been working to bring all application deposits and invoices current. The pattern in the past was to send an invoice after the application had been approved, but this resulted in large invoices. The department has been working to send out invoices on a quarterly basis to keep accounts current. The department does accept payment plans and has started sending out information on payment plans with the invoices.

The concerns with the compliance agreements are related to two requiring improvements; the driveway aprons required by the county and the culvert improvements required by the California Department of Fish and Wildlife. The Ad Hoc Committee has a meeting set up with CDFW to discuss the state requirements. The county requirement for the driveway apron is a standard requirement required for all intersections with paved public roads for all development (not just cannabis.) The Planning and Building Department has been extending the terms of the Compliance Agreements and will continue to do so upon request.

1. Provide Time to Pay Measure S Taxes. With the current market prices for Cannabis farmers are having trouble selling product at a price which adequately covers the cost of cultivating the crop. Many cultivators claim the result is they are unable to pay their Measure S tax. The question asked is whether the taxes can be deferred with a payment plan extending the time for payment of the taxes. Creating an installment payment plan would create several logistical problems for the Treasurer Tax Collector. The TTC's office does not have the software or personnel to support an installment payment plan.

The Treasurer Tax Collector does have the ability to not assess fees for late payment of taxes. The Board could provide guidance to not assess late fees if the payments are received by a date certain. The second installment for 2020 taxes is due Oct. 15, 2021. It is anticipated that the market will be volatile going into next year. The first installment of 2021 cultivation taxes will be due in April of 2022. It is recommended that the Board give guidance to the Treasurer Tax Collector to not assess late fees for any late payments if both payments are made by the end of May 2022. The one caveat to this is that the cultivator must be current in all other payments to receive this benefit.

2. Measure S Tax Credits for Water Storage and Renewable Power. Developing tax incentives to encourage water storage and use of solar or other clean renewable power has been discussed dating back to 2019. This would address the cost of infrastructure installation and excise tax by allowing a reduction in tax in exchange for improvements that are benefits to the environment. It is too late to undertake this for the 2020 cultivation tax but providing incentives for people to install water storage and receive credit for the 2021 season payable in 2022 is possible. This would allow cultivators to be able to claim a tax credit for purchase of water storage facilities.

How much can be claimed against a tax bill, and when the credit can be claimed are items that need considerable work. The tax credit relationship to the Project Trellis funds would also need significant consideration. It is recommended that the Board of Supervisors direct staff to develop tax credits against excise taxes for consideration by the Board of Supervisors. On Dec. 7, 2021, staff will either present the draft tax incentives for consideration or provide a status report of what has been done and identify any issues which need to be addressed. The goal is to allow these incentives to be applied to 2021 taxes due in 2022.

3. Advocacy with the State. State licensing does not allow growers to not cultivate or reduce their cultivation area for a year. For a cultivator to keep their license current they must pay the annual fee and taxes even if they choose to cultivate less or not cultivate. The only way to not pay these fees is to let their license expire. In contrast, Humboldt County allows a grower to declare that they are not going to cultivate or are going to cultivate a smaller area than allowed under their permit and the county adjusts their permitted area to reflect that declaration. This allows a cultivator to retain their permit and reduce their tax burden to address a temporary circumstance. Attachment 1 is a draft letter prepared to address this concern. It is recommended the Board authorize the chair to sign this letter.

FINANCIAL IMPACT:

The deferral of penalties to allow payment of taxes is to encourage payment of taxes and address the stressful economic time for the cannabis industry. Taxes would be paid within the same tax year. If successful, this will have a beneficial financial impact by allowing more cultivators to pay their taxes. Deferring penalties will not have a negative impact on the collection of taxes. The preparation of a modification to the Measure S program to provide incentives for environmental stewardship will result in less excise tax being collected by the General Fund. The extent of this is related to the degree to which incentives are authorized. The financial impact of incentives is not known at this time. Advocating to the state is budgeted within the county's operating budget for several offices.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by supporting business, workforce development and creation of private-sector jobs .

OTHER AGENCY INVOLVEMENT:

Treasurer Tax Collector

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board can choose to give direction to act on the items above, or direct that no additional action be taken at this time.

ATTACHMENTS:

1. Draft Letter