

Commercial Cannabis Ballot Measure

Marc Zafferano, City Attorney
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AGENDA

- ▶ Review legal landscape
- ▶ Review what other cities in San Mateo County have done and cannabis ballot measure outcomes
- ▶ Discuss features of a potential ballot measure
- ▶ Discuss potential next steps for a November 2020 ballot measure
- ▶ Provide direction to staff

Current Legal Landscape

- **Federal**
 - **Controlled substance that's illegal to possess or sell**
- **State**
 - **Proposition 64: Adopted 11-08-2016**
 - **Allows recreational use, possession, purchase, sale, distribution of specified amounts**
 - **Allows indoor cultivation of six plants for personal use**
 - **Allows most commercial activities subject to state license**
 - **Allows cities to regulate or prohibit some or all commercial activities**
 - **Imposes excise and sales tax totaling 22%**
 - **City would receive 1.5% in total sales tax including Measure G tax**

Current Legal Landscape

- **San Bruno**
 - **Medical cannabis distribution facilities prohibited (Chapter 6.58, 2011)**
 - **Commercial cannabis activities prohibited except as allowed by state law (Chapter 6.59, 2018)**
 - **Adopted by City Council following two years of public meetings and study**
 - **CC retains authority to repeal or modify**

Issue for Discussion

- **April 28, 2020: City Council requested study session about placing cannabis measure on November 2020 ballot**
- **Staff and consultant research**
 - **Five City departments**
 - **HdL, consulting firm advising all San Mateo County cities that adopted a ballot measure**
 - **Outside counsel for tax ordinance guidance**
 - **Staff time: approximately 75 hours to date**

What Have the 20 San Mateo County Jurisdictions Done?

- **9 cities: prohibit all commercial cannabis activities (San Bruno, Burlingame, Millbrae, Colma, Hillsborough, Foster City, Menlo Park, Atherton, Woodside)**
- **2 cities and County: prohibit all commercial cannabis activities except for distribution**
 - **85 entities distributing cannabis without state or local licenses/permits supplying resident needs**
 - **Difficult to tax**

What Have the 20 San Mateo County Jurisdictions Done?

- **8 cities: adopted ballot measures to tax and/or regulate various commercial cannabis activities**
 - **Tax: range from 2.5-10%**
 - **Regulations: zoning/permitting**
 - **Revenue generation estimated at time of ballot measure adoption: \$100K-\$1.5M**

What Happened in the 8 Cities that Adopted Ballot Measures?

- 2 cities have collected revenue
 - **Pacifica: \$300K-\$500K**
 - **SSF: under \$100K since January 2019**
- **Why? Barriers to entry for new businesses**
 - **Permit costs/fees imposed by cities**
 - **City taxes levied above state taxes**
 - **Lack of stable banking options**
 - **Robust underground economy**
 - **Investment dollars dwindling**
 - **Only retail operations generate significant direct revenue**
 - **Pacifica businesses existed previously**

What Would a Ballot Measure Contain?

- **Tax**
 - **2/3 vote of CC (4 affirmative votes) required to place on ballot**
 - **One meeting to adopt resolution**
 - **Majority voter approval**

What Would a Ballot Measure Contain?

- **Regulations**
 - Voter approval not legally required
 - CC could place regulatory ordinance on ballot by majority vote
 - One meeting to adopt resolution
 - Majority voter approval
 - Caveats
 - Voters may not approve activities such as retail that generate revenue (HMB)
 - Requires substantial work to develop
 - Prior community input desirable

Possible Next Steps to Move Forward With Ballot Measure

- How should City develop language of a potential ballot measure?
 - Do polling, then develop measure around public support
 - Previously done by City for successful measures
 - Use another city's ordinance
 - Provide specific direction to staff
 - Retain experts to assist with drafting

Possible Next Steps to Move Forward With Ballot Measure

- **What level of tax would be appropriate?**
 - **Align to highest in County: 10% (Daly City, San Carlos)**
 - **Align to lowest in County: 2.5% (HMB, SM) for some activities**
 - **Select another rate (SSF: 5%; Brisbane: 6%)**
 - **Set low but allow CC to raise (Pacifica: 6% initially raised to 10%)**
 - **Retain experts to evaluate appropriate level for each permitted activity**

Possible Next Steps to Move Forward With Ballot Measure

- Should City provide information to community about the measure?
 - Hold public meetings, staff presentations to community, mailers
- Consider effect of potential cannabis measure on potential TOT tax measure

Potential Ballot Measure Costs

- **Polling: \$30K**
 - **Potential additional cost for election consulting depending on ballot issue**
- **Comprehensive services including economic analysis, ballot measure development, public meetings: \$30K**
- **CEQA/GIS Services: \$10K-\$25K depending on measure**
- **Informational mailers: \$8K per mailer**
- **Election costs: \$7K-11K**
- **Staff time**
 - **50-150 hours depending on ballot measure**

Summary

- **Timeline: Ballot Measure and associated materials to County by 08-08-2020**
- **Less than 60 days to perform all necessary work before second July CC meeting**
- **Consultants and staff required to immediately begin work**

Next Steps

- **Discuss whether to place measure on November 2020 ballot**
- **Discuss whether tax only, tax+regulation, or regulation only**
- **Discuss whether to retain consultants to perform necessary work to determine viability and content**
 - **Discuss source of funds for work**