



Staff Report

File #: REPORT 22-0212, Version: 1

Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of April 12, 2022

HERMOSA BEACH CANNABIS ADVISORY GROUP
REPORT AND RECOMMENDATIONS
(City Manager Suja Lowenthal)

Recommended Action:

Staff recommends City Council:

1. Receive a report regarding the Hermosa Beach Cannabis Advisory Group and its recommendations; and
2. Consider the City's options, in light of the cannabis initiative filed with the City Clerk by Colton Chacker on November 17, 2021, and provide direction regarding next steps.

Executive Summary:

At the direction of City Council, the City Manager formed the Hermosa Beach Cannabis Advisory Group in early 2022. After holding a total of six public meetings, the work of the Cannabis Advisory Group culminates with this report and recommendation to City Council. Staff recommends City Council discuss the recommendations of the group and provide staff direction regarding the City Council's options.

Background:

On November 17, 2021, the Hermosa Beach City Clerk received an initiative to allow cannabis retail in Hermosa Beach filed by Colton Chacker. At its December 14, 2021 meeting, City Council directed the City Manager to form an Advisory Group, subject to the Brown Act, to explore policy issues and provide City Council with input on whether the City's current ban on cannabis business operations should be modified.

The City Manager accepted statements of interest from civic-minded residents and business owners interested in serving on Hermosa Beach's Cannabis Advisory Group and selected six community members to join representatives from the Hermosa Beach City School District, Hermosa Beach Chamber of Commerce and Visitors Bureau, and Beach Cities Health District. All efforts were made to ensure that representation was evenly balanced.

The primary task of the group was to examine whether the City should change its current ban on cannabis sales and, if so, whether cannabis retail storefront operations or delivery sales from

locations within the City, or both, should be permitted in Hermosa Beach. The group was also asked to study and discuss how a change in the ordinance would impact law enforcement and the community. A copy of the Cannabis Advisory Group Workplan is included as **Attachment 1**.

The group held a total of six public meetings where staff presented information regarding the City's current ban on cannabis, the cannabis initiative filed with the City Clerk by Colton Chacker, the City's options in light of the resident proposed cannabis initiative, the potential impact of cannabis sales on law enforcement, City operations, and community character, and the status of similar initiatives in neighboring cities. A series of presentations from guest speakers were also provided including:

- Jonatan Cvetko, Executive Director at United Cannabis Business Association;
- Dr. Brian Hurley, Substance Abuse Prevention and Control, Los Angeles County Department of Public Health;
- Tom Bakaly, Chief Executive Officer, Beach Cities Health District (Impacts of Cannabis on Youth and Summary Data); and
- Andrew Salinas, Police Chief, City of Port Hueneme.

At its sixth and final meeting on March 29, 2022, the Cannabis Advisory Group arrived at its final input and recommendations regarding whether the City's current ban on cannabis business operations should be modified.

Past Council Actions

Meeting Date	Description
December 14, 2021 (Regular Meeting)	City Council directed the City Manager to form an Advisory Group, subject to the Brown Act, to explore policy issues and provide City Council with input on whether the City's current ban on cannabis business operations should be modified.

Discussion:

Cannabis Advisory Group Recommendations

At its March 29, 2022 meeting, the Hermosa Beach Cannabis Advisory Group participated in a final voting process regarding its support of key policy issues and options of the City Council. A complete tally of the group members votes is included as **Attachment 2**. During the final vote, the Chamber of Commerce representative, Dave Davis, clarified for the record that he was voting as an individual business owner and not as a representative of the Chamber of Commerce. The Hermosa Beach Chamber of Commerce has a neutral position on this issue. With all nine members present, the group unanimously agreed that they are opposed to the initiative filed with the City Clerk by Colton

Chacker on November 17, 2021.

The group also voted unanimously that the lack of a retail storefront in Hermosa does not cause hardship to Hermosa Beach residents and that the City should pursue a flexible tax whether that be in the form of a stand-alone tax measure or as a component of a competing initiative. The final unanimous vote of the group was that the City Council should not adopt a new cannabis ordinance prior to the November 2022 Election to allow cannabis delivery, retail, or other activity.

While the remaining questions did not garner unanimous votes, majority opinions emerged in support of retaining the current cannabis ban on both storefronts and delivery. When asked specifically about delivery activities, a majority of the group supports lifting the ban on cannabis delivery, but does not support allowing a non-storefront delivery based in Hermosa Beach. When asked specifically about non-delivery cannabis retail storefronts, the majority does not recommend lifting the ban.

Overall, a majority of the group members feels that Hermosa Beach residents have adequate access to legal cannabis and that the City Council should create a competing initiative lifting the ban on cannabis deliveries from businesses operating outside the City. The group supports capturing tax revenue from such deliveries.

If City Council determines that it is desirous of a competing initiative related to storefronts, the Cannabis Advisory Group offered the following list of possible regulations for consideration:

- 1,500 foot minimum distance from schools (**Attachment 3**)-if it would not create a ban;
- Restrictions regarding density and proximity to schools, as well as routes to schools;
- Prohibition of retail in the area surrounding the Pier;
- Prohibition of outdoor advertising;
- Restriction on flavored products and combustibles and products marketed towards youth;
- The exploration of a regional agreement with neighboring cities;
- Funding for schools and ongoing education;
- Buffer in-between storefront locations;
- Security with Police Department access to security camera system feed;
- Limit on number of storefronts;
- Requirement for Conditional Use Permit;
- No cultivating or manufacturing activities;
- Requirement to correct issues within 24 hours or be shut down;
- No property requirement to apply; and
- Merit based selection process.

City Council Options

To date, City Council has taken the following actions:

1. Requested the formation of an advisory group. The Cannabis Advisory Group has now completed its directive to offer input and recommendations to City Council.
2. Held action to determine whether the filed cannabis initiative would gather the required signatures to qualify for the ballot. The initiative gathered the required signatures and at its March 22, 2022 meeting, City Council voted to receive and file the Certificate of Sufficiency for the proposed Chacker initiative.
3. Rejected adoption of the Chacker initiative. At its March 22, 2022 meeting, the City Council opted not to adopt the resident initiative by ordinance and instead submit the ordinance, without alteration, to the voters in the November 8, 2022 Municipal Election.

Moving forward, the City Council options include:

1. Take No Further Action

Allow the voters to decide on the initiative filed by Colton Chacker.

2. City Initiated Cannabis Ordinance or Competing Initiative

If the City Council is inclined to allow some type of cannabis business activity in the City, but differently than as proposed in the initiative, the City Council could direct staff to prepare such an ordinance for Council adoption any time before the November 8, 2022 election. An ordinance would give the Council the ability to amend the ordinance, as needed. If the Council were to enact an ordinance before the November 8, 2022 election, Council could then take a position against the initiative filed by Colton Chacker.

Alternatively, the ordinance could be placed on the ballot to compete with the initiative and drafted in such a way that the ordinance with the most votes would control. As noted above, voter approved ordinances cannot be repealed or revised in the future by the City Council unless they expressly allow it. This option is only advisable if the Council desires to allow cannabis operations in a different manner or scope than allowed by the initiative-for example, reducing the number of allowed retail businesses or limiting cannabis sales to delivery only.

3. Ballot Measure for a Cannabis Business Tax

The proposed ordinance does not provide for a tax on cannabis operations separate and apart from the City's standard business tax. Many cities that have allowed commercial cannabis uses have asked its voters to approve a corresponding local cannabis tax; under Proposition 218, such

a tax must be approved by the voters. Given that the ordinance qualified for the ballot, City Council may want to consider placing a cannabis business tax on the ballot as well. The deadline to place the tax measure on the ballot with this initiative would be early August for the November 2022 election.

A special tax can be placed on the ballot by a simple majority vote of the City Council but must be approved by two-thirds of the voters who vote in the election. General taxes must have two-thirds support from the City Council to be placed on the ballot but only require approval by a majority of the voters who vote in the election.

The taxes on cannabis products in other cities vary widely, but typically range from 2.5 percent to 20 percent of gross receipts or are based on square footage. Commonly, the taxes are general taxes meaning that the revenues can be used for unrestricted general revenue purposes of the City. The Cannabis Advisory Group recommends a flexible tax option that would allow the City the ability to adjust the rate as needed.

Additional Considerations

1. Maintaining the City's Existing Ban on Cannabis Retail

If a majority of the voters reject the Chacker initiative, the existing ban would remain in place. No action would be required by the Council to retain the City's existing ban.

2. Limits on the Expenditure of Public Funds

Public funds may not be used to campaign or advocate for or against a ballot measure. They may, however, be used to provide objective and educational information to the electorate about the impact of a measure on the community. The law does allow the City Council to take an official position on a measure and to communicate that position to the community. In addition, nothing prevents individual Councilmembers from advocating for or against a measure at their own expense.

Staff recommends City Council discuss the recommendations provided by the Cannabis Advisory Group and provide staff direction regarding the City's Council's options.

General Plan Consistency:

This report and the associated recommendation have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

Governance Element

Goal 1. A high degree of transparency and integrity in the decision-making process.

Policy:

- **Open Meetings.** Maintain the community's trust by holding meetings in which decisions are being made, that are open and available for all community members to attend, participate, or view remotely.

Goal 2. The Community is active and engaged in decision-making processes.

Policy:

- **2.4 Public participation guidelines.** Establish parameters and guidelines to ensure public participation is promoted through diverse methods

Fiscal Impact:

There is no immediate fiscal impact associated with the recommended action. Fiscal impacts associated with any option that may be explored by Council would be evaluated upon receiving further direction.

Attachments:

1. Cannabis Advisory Group Workplan
2. Cannabis Advisory Group Final Votes
3. School Buffer Location Map
4. Link to December 14, 2021 City Council Staff Report
5. Link to February 22, 2022 Cannabis Advisory Group Agenda
6. Link to February 28, 2022 Cannabis Advisory Group Agenda
7. Link to March 10, 2022 Cannabis Advisory Group Agenda
8. Link to March 14, 2022 Cannabis Advisory Group Agenda
9. Link to March 21, 2022 Cannabis Advisory Group Agenda
10. Link to March 29, 2022 Cannabis Advisory Group Agenda

Respectfully Submitted by: Angela Crespi, Deputy City Manager

Noted for Fiscal Impact: Viki Copeland, Finance Director

Legal Review: Mike Jenkins, City Attorney

Approved: Suja Lowenthal, City Manager