



CITY COUNCIL AGENDA REPORT

MEETING DATE: March 2, 2021

ITEM NUMBER: NB-2

SUBJECT: APPROVE THE PROPOSED STAFFING PLAN FOR THE IMPLEMENTATION OF THE RETAIL CANNABIS TAX AND REGULATION MEASURE (MEASURE Q) AND AMEND THE TABLE OF ORGANIZATION AND FY 2020/21 ADOPTED BUDGET

DATE: February 24, 2021

FROM: FINANCE DEPARTMENT

PRESENTATION BY: CAROL MOLINA, FINANCE DIRECTOR

FOR FURTHER INFORMATION CONTACT: Carol Molina, Finance Director, (714) 754-5243

RECOMMENDATION:

Staff recommends that the City Council approve the requested staffing increase and appropriate funding for the last quarter of the fiscal year estimated at \$0.3 million for the successful implementation of the Retail Cannabis Tax and Regulation Measure (Measure Q) allowing for cannabis retail storefront (dispensaries) and retail non-storefront (delivery) uses in specified areas of the City subject to limitations.

BACKGROUND:

Measure X

On November 8, 2016, concurrent with the passage of State Proposition 64, voters approved the “City of Costa Mesa Medical Marijuana Measure”, also known as “Measure X.” Measure X, as subsequently amended allows the following medical and recreational cannabis-related uses in the City: distributors, manufacturers, processors, research and development laboratories, as well as testing laboratories and transporters, subject to the approval of a Marijuana Business Permit and a Conditional Use Permit (CUP). These uses may only be located in specific Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties north of South Coast Drive, west of Harbor Boulevard, excluding the South Coast Collection (SOCO) property located at 3303 Hyland Avenue. This area is now known as the “Green Zone.” To date, the City has approved 25 CUPs for manufacturing and distribution uses; of that, nine businesses have received a state license and are currently in operation.

Measure Q

At the May 19, 2020 regular City Council meeting, the City Council directed staff to hire a professional consultant to conduct a community survey to help assess community interest and potential support for allowing cannabis retail and delivery uses in the City.

An independent third-party polling firm, Fairbank, Maslin, Maullin, Metz & Associates (FM3), was retained to assist with the effort and conducted the surveys. The community surveys were conducted via phone calls and online from June 29, 2020 to July 2, 2020 and July 6, 2020 to July 8, 2020; a total of 427 responses were received.

In addition to community surveys, outreach with the local cannabis industry (made up of manufacturers, distributors, and dispensary owners) was also conducted by the City Council's Cannabis Ad Hoc Committee and City staff. The Committee held three outreach meetings via Zoom to obtain feedback from the local cannabis industry on the potential ballot Measure and to obtain information regarding industry best practices related to retail cannabis in other cities.

The community polling revealed that over 60 percent of those polled were supportive of a regulated means for the provision of retail cannabis and delivery services. Accordingly, staff drafted Measure Q to allow the City to adopt an ordinance to regulate and tax such uses. On the July 21, 2020 regular City Council meeting, the City Council approved a Resolution to place Measure Q on the ballot for the November 3, 2020 election. The uncodified ordinance provide the City Council the authority to adopt an ordinance at a later time and allow the most time to identify best practices, and information regarding the advantages and disadvantages of retail operations in other cities, as well as ensuring compliance with State law and regulations from the State Bureau of Cannabis Control.

On November 3, 2020, city voters approved the "City of Costa Mesa Retail Cannabis Tax and Regulation Measure" (Measure Q). The passage of Measure Q does not allow the retail sale of cannabis products, rather it allows the Costa Mesa City Council to adopt regulations permitting cannabis retail and delivery uses within the City subject to specific requirements. These requirements include:

- retail store-front uses may only be permitted in the commercial zone;
- retail non-storefront uses may be permitted in both the commercial zone and in the Green Zone;
- retail storefront uses must be located a minimum of 1,000 feet as determined by the City from
 - child daycare locations,
 - K-12 schools,
 - playgrounds, and
 - homeless shelters;
- security measures must include exterior lighting, video monitoring and security guards;
- a labor peace agreement would be required for retail cannabis businesses with two or more employees;
- the gross receipts tax imposed must be a minimum of four-percent and a maximum of seven-percent; and
- the proceeds of the tax are subject to an annual audit by certified public accountants that is reported to the City Council and available on the City's website for public inspection.

Based on discussions with HdL and analyzing retail cannabis tax collections, staff estimates that the City of Costa Mesa can generate up to \$3 million annually based on a seven-percent tax rate and six retail establishments. Additional revenues can be achieved if the total number of establishments are higher than the six establishments assumption utilized for the measure.

ANALYSIS:

Similar to Measure X, Measure Q requires businesses to obtain a Retail Cannabis Business Permit, a Conditional Use Permit, and a Business License before they may conduct business in the City. In addition, Measure Q sets forth operational requirements for these businesses, and requires the City Manager to develop Administrative Regulations to establish the procedures by which this measure shall be implemented and enforced. The City has retained the services of HdL Consulting to assist in developing permitting requirements. HdL has significant experience implementing marijuana business regulations in Colorado and other communities that have allowed marijuana businesses within their jurisdictions. Additionally, HdL will also be assisting the City in reviewing applications for retail cannabis businesses. City staff will be working closely with HdL Consulting in drafting the ordinance, review application processes, site plan review, and auditing tax receipts of cannabis businesses.

For the implementation of the first cannabis measure, Measure X, no additional City staff were hired or brought on by the City to assist with the initial implementation or ongoing monitoring of applications, issuance of permits, issuance of business licenses, inspections of facilities and tenant improvement, and the review of security measures, to name a few. While the City was able to bring on numerous businesses without additional staffing, this will not be feasible with the additional retail cannabis businesses in the City given existing workloads.

In an effort to help ensure a more effective implementation of the Measure Q program, staff recommends to increase the Citywide Table of Organization consistent with neighboring cities with similar cannabis retail and delivery programs (Attachment 1). This is in response to concerns related to potential delays in permitting due to the lack of staffing resources generally Citywide and in an effort to facilitate revenue attainment.

Proposed Staffing Plan

As a result, staff analyzed the personnel increases implemented in other cities with retail cannabis businesses to understand the potential workload impacts. Both neighboring cities, Santa Ana and Long Beach, have similar retail tax implementations, and have between 24 and 30 retail cannabis storefronts within their city limits. City staff continues discussions with cities that have established adult retail tax that may result in further enhancements. Staff anticipates additional operating expenditures that will be included in the FY 2021/2022 proposed budget discussions.

However, at this time, based on the staffing enhancements of the cities of Santa Ana and Long Beach, of 8.50 and 10.50 (Attachment 1), and the experience of their staffing impacts due to the administration of their retail cannabis program, staff is respectfully requesting additional staffing. A total of 7.25 full time staff positions have been identified in this initial overview as being necessary to address the myriad workload requirements resulting from the implementation of Measure Q and the ongoing impacts of this new line of business in the City of Costa Mesa. Further, based on the number of retail cannabis storefronts, these positions is estimated to be able accommodate the ongoing administration and enforcement of up to 25 new cannabis storefront businesses.

The positions identified will assist the Development Services (3.0 FTEs), Finance (1.0 FTEs), Police (2.0 FTEs), and Fire (1.25 FTEs) Departments with the resources necessary for the ongoing management of the Measure Q program (Attachment 2). These positions will perform various functions including: process permit and business license applications,

perform inspections, ensure tenant improvements are compliant with requirements, review onsite safety plans and measures, and provide enforcement against illegal cannabis dispensaries in Costa Mesa posing as legitimately licensed businesses.

This staffing plan was reviewed by the City Council's Ad Hoc Committee on Cannabis and is being brought forward to the City Council for education and discussion purposes. Given the ability to generate considerable revenue from Measure Q, it is imperative that there are sufficient staff available to conduct as smooth a transition into this new line of business for the City as possible. Further, these positions would also assist in the enforcement of illegal dispensaries that are operating within the City as a result of both Measure X and Measure Q. Staff have identified various enforcement tools, including citations by Code Enforcement, Police or Fire personnel that can be imposed on property tax, litigation or other means to actively enforce legal cannabis dispensaries.

Staff continues to actively engage with cities that currently have retail cannabis programs to prepare for the cannabis measure. This initial phase will allow for the additional staffing to go through the onboarding of these positions in time for the opening of the program. The next steps coming to the City Council will include the tax ordinance, fees resolutions and the additional resources needed to implement, manage and enforce this new program.

ENVIRONMENTAL DETERMINATION

Pursuant to the provisions of the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) the Measure Q is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b) (3), because it can be seen with certainty that there is no possibility that these actions may have a significant effect on the environment.

ALTERNATIVES CONSIDERED:

The City Council may opt to reject all or part of the additional 7.25 staffing positions. This would create additional workload burden on staff and would result in significant delays of the implementation, administration and enforcement of the Measure Q program.

FISCAL REVIEW:

Measure Q is estimated to generate in excess of \$3 million annually at the 7 percent tax rate. Further, staff is currently working with Clear Source Financial Consulting to bring forth fees that will offset the staffing costs related to this request. The revenues anticipated are still under review and will depend on the number of dispensaries permitted in the City. The additional 7.25 full time positions requested are estimated to cost \$1.2 million fully loaded annually. Finally, an appropriation increase in FY 2020/21 of approximately \$0.3 million, which represents the pro-rated estimated amount is also requested.

LEGAL REVIEW:

The City Attorney has reviewed and approved this form.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following multiple City Council goals: 1) recruit and retain high quality staff, 2) achieve long-term fiscal sustainability, and 3) strengthen public safety and keep the community safe.

CONCLUSION:

Staff recommends that the City Council approve the additional 7.25 full time positions with the commensurate appropriation for the administration, enforcement and implementation of the Measure Q program. This initial expenditure request will allow staff to begin the lengthy process of hiring these new staff positions. Further, staff is in the process of working with other cities that have retail cannabis programs to identify additional resources. Additional requests will be included in the FY 2021/2022 proposed budget. Finally, the City is actively working with a consultant to bring forth City fees to the Council in conjunction with the retail tax ordinance that will also offset the fiscal impacts of the staffing and operating requests.

CAROL MOLINA
Finance Director

LORI ANN FARRELL HARRISON
City Manager

ATTACHMENTS:

Attachment 1: [Proposed Measure Q Staffing Plan Comparison with Other Cities](#)

Attachment 2: [Proposed Measure Q Staffing Plan](#)