City of Long Beach
Working Together to Serve

Memorandum

Date: June 3, 2015

To: Mayor and Members of the City Council

From: Patrick H. West, City Manager

Subject: **Medical Marijuana Information**

At its February 10, 2015 meeting, the City Council directed staff to provide information pertaining to the proposed medical marijuana ordinance. In a memorandum dated March 24, 2015 (attached), staff presented the outcomes of its research and analysis relating to the majority of the City Council's questions. However, some of the questions required substantial research and additional time was needed. This memorandum provides responses to those previously unanswered, or partially answered, questions.

It is important to note the information presented herein is formulated around the conditions contained in the proposed ordinance. Additionally, based on past experience, staff made two key assumptions in preparing its responses:

1. Many more unsanctioned businesses than sanctioned businesses will exist. (A 4 to 1 ratio has been assumed for the purposes of this memorandum, though Long Beach and other cities have experienced an even higher ratio.); and

2. The City Council is keenly interested in staff pursuing the immediate closure of unsanctioned businesses.

Should the conditions of the proposed ordinance be modified, or should the City Council express a reduced emphasis on pursuing unsanctioned businesses, staff will modify its responses and estimates.

RESPONSES

To provide greater clarity and reduce redundancies in responses, questions 1.6 and 1.7, which concern the monitoring and auditing of medical marijuana businesses, will be addressed concurrently.

Similarly, questions 1.8, 4.1, 5.1, 5.2, 5.4., 5.5, and 5.6, which concern the fiscal impacts associated with medical marijuana, and will be addressed concurrently.

MONITORING AND AUDITING MEDICAL MARIJUANA BUSINESSES (1.6 & 1.7)

Sections 21.XX.050 and 21.XX.110 of the proposed ordinance require dispensaries to install and utilize point of sale systems to keep records of the production and sale of marijuana within the City of Long Beach. The proposed ordinance requires this point of sale software to include a number of features, such as tracking product inventory and sales. In addition, Financial Management recommends that such software have large display screens. Both the Police Department and Financial Management would recommend that video cameras be required to monitor the point of sale area in the store. The video records of these areas should be required to be retained by the business for 18 months, compared to 30 days for other video records in the current text of the ordinance.

The City will perform an audit each year on every medical marijuana business. The audit will include a review of a sample of financial transactions and records and video footage to determine if an underpayment of tax has occurred. If underpayment has occurred, the City will issue an invoice to collect the amount due. Although there are financial penalties for underpayment, the primary tool of enforcement in such cases will be the revocation of a permit for any business that violates any section, including any recordkeeping requirements, of the proposed ordinance.

In addition to point of sale software, medical marijuana specific business management and tracking software, often labeled as "seed to sale" software, is becoming more common in this industry. Some of the most prominent providers include BioTrack THC, MJ Freeway, and Quantum 9 Atlas Software. This software is designed both for the sales and inventory tracking mechanisms specific to the medical marijuana industry and for day-to-day operation of the businesses. City staff has not evaluated specific software and, at this point, does not have a specific software recommendation. This software is quite versatile and can be customized to provide a number of features, including, but not limited to:

- Automated, real-time, web-based interface allowing remote access by the City.
- Tools and features to allow the City to extract real-time data related to the business' inventory of plants, by strain and batch, materials, and/or products on hand, including complete unique ID number, and point-of-sale system accounting of sales.
- Tools and features to allow the City to extract the business' financial and administrative records related to performance, including, but not limited to:
  - Date and amount of all dispensed medical marijuana;
  - Ledgers, journals, cash receipts, cash disbursements records, bank statements, cancelled checks, and deposit slips;
  - Billings, overhead expenses, and contributions by members;
  - Agreements and contracts with vendors and other third parties;
  - Payroll tax reports, sales tax returns, and income tax returns;
  - Hazardous materials reports; and

- Any and all reports filed with Federal, State, and other local agencies or governments.

Additional data pertaining to collective membership might also be recorded in the system, though including it as a City requirement and allowing the City to access the data would be subject to HIPPA requirements and City Attorney review.

When used properly by a business, "seed to sale" software allows for the tracking and monitoring of a specific plant as it undergoes cultivation, processing, and sale as medical marijuana or as an infused product. It could display the cash transaction associated with that plant and with the batch or product with which it was sold to a customer. These systems also often include point of sale features and can integrate sale and recordkeeping functions into one system.

Such a system would likely be expensive to monitor for the City. In addition, some features of the software, such as "seed to sale" tracking, would be less useful if the City Council chooses to eliminate the local cultivation requirement in the ordinance. The City has not included the costs associated with monitoring this system in the fiscal impact below as it is not included in the current ordinance. Even with a "seed to sale" system, it is possible for a medical marijuana business to divert sales or inventory from the system. If the City chose to require such a system and chose to ensure that businesses enter all plants or medical marijuana supply into the system and do not delete inventory fraudulently, the City would need to conduct frequent in-person inspections of the cultivation facilities and the dispensaries or require remote access to security cameras within cultivation facilities. This is also not included in the fiscal impact analysis as it is not part of the current ordinance.

FISCAL IMPACT (1.8, 4.1, 5.1, 5.2, 5.4. 5.5 & 5.6)

The Financial Management Department worked in conjunction with City departments and an independent consultant to calculate both the fiscal impact of the City's existing ban on medical marijuana and a preliminary fiscal impact of the potential medical marijuana ordinance on the City as a whole.

Fiscal Impact of Existing Ban

Several departments, including Police, Fire, City Attorney, City Prosecutor, Development Services, and Financial Management, have been involved in enforcing the ban on medical marijuana. Although exact records on the cost of every enforcement action do not exist, the Department of Financial Management has worked with City departments to estimate the time and costs of enforcement actions and related activities.

Since 2010, it is estimated that the City has expended more than $5 million in enforcing the prior regulatory ordinance and ban on medical marijuana. This has ranged from $360,000 to more than $1.5 million on an annual basis. The largest expenses were incurred in FY 13 and FY 14, following the enactment of the ban and increased enforcement efforts. The table below provides a breakdown by department.

Total Costs incurred FY 10 – FY 15	
Department	**Total Costs**
Fire	$15,000
Police	$425,000
City Attorney	$3,000,000
City Prosecutor	$550,000
Financial Management	$1,200,000
Development Services	$70,000
Total	**$5,260,000**

During this same time period, the City collected $1,275,000 in fines from administrative citations, out of a total of $3,320,000 issued.

Fiscal Impact Analysis of Draft Ordinance

As was communicated in the March 24, 2014 memorandum, the City does not currently have the resources to successfully implement and manage a medical marijuana ordinance. If an ordinance were adopted without additional resources, the City would experience the same types of problems encountered with the prior ordinance, perhaps to an even greater degree. These problems included, but were not limited to, an inability to close non-compliant businesses despite numerous fines and liens, increased calls for service (Fire and Police), and incidents of violent crime. Further, even if additional resources were found, there would need to be a minimum of a one-year preparation period as staff would need to be hired through the Civil Service process, trained, and deployed. Also, consultants would need to be interviewed and hired, and appropriate policies and procedures would need to be developed to be fully prepared for ordinance implementation.

We know additional personnel and/or enhanced overtime will be necessary in several departments, including Police, Fire, City Attorney, City Prosecutor, Development Services, Financial Management, Health, and the City Manager's Office. We also know there will be some revenue resulting from the implementation of a new ordinance.

Regulatory/Enforcement Costs

These cost estimates are very preliminary. They include both requirements for new staff and the redirection of existing staff to medical marijuana regulation activities. Because the ordinance would allow for a new industry within the City of Long Beach with externalities specific to this industry, the regulatory work could not be covered by existing staff while still maintaining normal levels of service to other residents and businesses.

The cost estimates below are based on Long Beach's experience in the past more than on what has happened in other cities. They are also based on requirements of the current draft ordinance. Changes to the ordinance may materially affect cost. Also, specific direction from City Council on enforcement and other activities will help to clarify potential costs and revenues. It is expected that any regulatory program that is instituted would be regularly reviewed for changes.

City Attorney

Since 2010, the City Attorney has dedicated significant resources to litigation and enforcement efforts related to medical marijuana regulation. The City Attorney's Office represents the City in numerous medical marijuana civil cases and administrative hearings to enforce and defend the City's medical marijuana ordinances. In addition, the City Attorney's Office provides legal advice to all City departments to interpret and apply relevant State and federal legislation and constantly changing case law.

The demand for assistance from the City Attorney's Office will continue due to the evolving legal nature of the marijuana industry and the high likelihood that any change from the City's current medical marijuana ban will result in increased litigation. The State legislature is currently considering six bills related to medical marijuana, any of which could impact a regulatory program adopted by the City. Moreover, based on previous experience, changing case law and statutes will likely require additional revisions to any ordinance passed by the City Council. For these reasons, the City Attorney's Office will continue to be significantly involved in City activity relating to regulation and enforcement of medical marijuana businesses.

City Attorney Requirements	Annual Cost
• 2.0 FTE - Deputy City Attorney • 2.0 FTE - Legal Assistant I-IV	$675,000

City Manager

The City Manager's Office manages medical marijuana regulatory programs in other California cities, as it is a complex regulatory program that requires direction and coordination with a multitude of departments. This position also provides the City Council and community with a central point of contact for medical marijuana issues, and will direct and coordinate interdepartmental efforts. In addition, the City Manager's Office will be involved in active policy coordination and oversight. Because of the evolving nature of California legislation on this industry and the impacts of both sanctioned and unsanctioned businesses on City resources, it is prudent for senior staff in the City Manager's Office to be involved on an ongoing basis.

City Manager Requirements	Annual Cost
• 1.0 FTE - Assistant to the City Manager • 0.3 FTE - Administrative Aide I-II	$175,000

City Prosecutor

The City Prosecutor expects to be involved in criminal litigation of licensing, due process, State and federal law pre-emption, and other issues, relating to medical marijuana. The City Prosecutor has been significantly involved in medical marijuana litigation since 2010 and has prosecuted more than 700 individuals. This does not include the medical marijuana cases which were rejected for lack of evidence. In addition, the City Prosecutor

has been involved in discussions with law enforcement outside of the courtroom regarding the ordinance. It is expected that all of these activities will continue under a new ordinance.

City Prosecutor Requirements	Annual Cost
• 1.0 FTE - Prosecutor • 1.0 FTE - Paralegal	$215,000

Development Services

Development Services will be involved in the inspection of both sanctioned and unsanctioned facilities. It anticipates the Planning processes (the CUP application and its renewal) and the Building plan check, permitting and inspection processes will be covered by existing resources. Additional resources will be needed to train Building Plan Check and Inspection staff on issues and concerns specific to dispensaries and grow facilities, and to do follow-up inspections to ensure ongoing compliance.

Beyond the initial entitlement and construction phase, staff will be expected to respond to issues arising from business operations. Staff will be informed of illegal changes to businesses through complaints from neighbors, inspection requests, or requests from the Police Department. Inspection staff will be required to investigate and issue citations, as necessary, for any violations of Building and Safety codes or other City regulations, including any unpermitted changes to the plumbing, electrical and mechanical systems of the building. If violations are found, one or more follow-up visits (typically two to four) will be needed to ensure that the site and/or building is restored in compliance with applicable City codes and regulations. If an inspection reveals that the changes to the building have caused a hazardous situation and the owners/operators refuse to restore the building in a permissible manner, staff will coordinate with other departments and agencies to shut the business down.

Nuisance Abatement staff will also receive calls from neighbors and from the Police Department; these calls will be related to nuisance activity outside a facility. For each nuisance call, at least one site visit is required and up to five site visits can be required. Staff also works closely with the City Attorney's Office to issue documents related to the abatement of nuisance activity.

Development Services Requirements	Annual Cost
• 1.25 FTE - Principal Building Inspector • 0.65 FTE - Senior Building Inspector • 0.32 FTE - Clerk Typist III	$435,000

	One-Time Costs
• Inspection of legal facilities • Training	$75,000

Financial Management

The Department of Financial Management anticipates that it will require additional staff and materials in the Business Services Bureau and the Commercial Services Bureau to provide services and enforcement operations relating to medical marijuana.

The additional sanctioned businesses are not expected to materially increase workload for business license inspectors, but significant contractual costs are expected for outside audits for compliance with cash controls/reporting and for audits to help ensure the accuracy of the self-reporting of sales tax. Commercial Services (cashiering) will receive and count taxes paid by the sanctioned medical marijuana businesses. Because tax payments are expected to be made entirely in cash and are expected to be relatively large, the Commercial Services Bureau will require additional staff, security, and equipment.

Unsanctioned businesses are expected to create a substantial workload for business license inspectors for citations and associated follow-up. The Business Services Bureau (licensing) will issue business licenses to sanctioned medical marijuana businesses and cite unsanctioned businesses that are brought to its attention. The Bureau is not expected to actively seek to identify unsanctioned businesses, except for those that may be found during normal testing and sweeps for unlicensed businesses. The Police Department will identify unsanctioned marijuana businesses and notify the Business Services Bureau as appropriate. Additional inspectors and associated support are expected to be required based on historical workloads.

Financial Management Requirements	Annual Cost
• 1.5 FTE - Business License Inspector • 1.0 FTE - Cashier • 0.5 FTE - Clerk Typist II - NC • Contract Auditor • Contract Security • Armored Car Service • Misc. Operating Costs	$600,000

	One-Time Costs
• Vehicle purchase for Inspectors • Cashiering Equipment • Reinforcement of Cashiering Facilities • Video Security Cameras	$320,000

Fire

The Fire Department anticipates that it will require an additional Plan Checker II to assist in the review and inspection of both sanctioned and unsanctioned facilities. The Fire Department will be expected to review plans and inspect legal and illegal businesses for structural, fire, and other hazards. The Fire Department will issue red tags for businesses operating in hazardous facilities, as it has done in the past. The additional FTE will allow

for the approval and periodic inspection of sanctioned facilities and the inspection and closure of unsanctioned facilities.

Fire Requirements	Annual Cost
• 1.0 FTE - Plan Checker II • Misc. Operating Costs	$175,000

Health & Human Services

The Health Department anticipates inspecting any medical marijuana facility engaging in the cultivation of marijuana and in the production and sale of medical marijuana infused food products. The Health Department currently charges for both environmental health and food safety inspections, and inspections of this nature for licensed facilities would be covered under current charges. The Health Department would be able to add inspections of medical marijuana testing certificates to these inspections at negligible cost at this time, because the current ordinance does not mandate a testing frequency or volume. If a high frequency or volume of testing were required, the Health Department may require additional staff to review the test certificates.

The Health Department also currently addresses environmental health hazards at manufacturing and other facilities that utilize hazardous products. Because additional unsanctioned cultivation facilities are expected at this time, the Health Department anticipates being involved in addressing environmental hazards that could arise at these facilities. Additional staff time will be required to address these environmental hazards.

Health & Human Services Requirements	Annual Cost
• 0.25 FTE - Environmental Health Specialist	$30,000

Police

Should a regulatory ordinance be established, it is anticipated that sanctioned businesses and the number of unsanctioned medical marijuana businesses will create a significant amount of work for the Police Department. The Police Department will require a full-time team to address complaints, identify unsanctioned businesses, arrest unsanctioned operators, assist in the closure of unsanctioned businesses, and gather and track data. This team would include a Sergeant, eight Officers, a Clerk Typist, and an Administrative Analyst in order to promptly address unsanctioned business, as well as the other crimes related to the presence of medical marijuana businesses.

A Sergeant is required to ensure supervision of officers and to comply with department policy requiring the presence of a supervisor at the service of a search warrant. The officers would conduct the necessary investigations. The Administrative Analyst would work to produce evidence required to secure convictions. The Clerk Typist would be tasked with assisting in case preparation, and other activities, such as monitoring workload and criminal activity associated with a marijuana dispensary.

Police Requirements	Annual Cost
• 1.0 FTE - Sergeant • 8.0 FTE - Police Officer • 1.0 FTE - Clerk Typist II • 1.0 FTE - Administrative Analyst II • Equipment & Overhead Costs	$1,600,000

	One-Time Costs
• Equipment Costs	$50,000

Total Costs

The total estimated costs to implement the proposed ordinance, as currently drafted, are as follows:

Annual Costs - All Departments	**$3,905,000**
One-Time Costs - All Departments	**$445,000**

Revenues

The Financial Management Department engaged a consultant experienced in the regulation of medical marijuana to develop revenue projections based on the potential Long Beach ordinance. The consultant researched revenue and patient demand from other cities in California, including Oakland, San Jose, and Sacramento, to develop realistic revenue projections for the City of Long Beach. These cities have active regulatory programs and have several years of revenue and cost data available for analysis. They are not in Southern California, however, and may not share similar demographic characteristics and approaches with regard to the way medical marijuana will be handled.

Cities in Southern California, such as Santa Ana and San Diego, have very recently enacted ordinances regulating medical marijuana. However, they do not have years of revenue and cost data. As a result, while we are comfortable with the use of information from the other cities, it should be considered that the experience of any of these cities may not match what will happen in Long Beach.

Tax Revenues

The consultant estimated that 4% of the City's adult population would be medical marijuana patients, based on rates ranging from 1.7% to 5% in other California cities. In addition, the consultant estimated the demand and usage rates within the City based on ordinance features, such as the local grow requirement and the inability for collectives to establish discounted loyalty programs. The projections below include three different scenarios based on low, medium, and high patient demand and retention. The consultant further estimated how altering requirements of the ordinance, including the local grow and residency requirements, would affect revenues. Finally, the consultant assumed cultivation sites

would be of various sizes, and the projections below assume that there will be twelve small facilities, four medium size facilities, and two large facilities.

Although these projections have been developed based on the best available evidence, the nature of the medical marijuana industry makes accurate revenue forecasting difficult. The projections below should be interpreted as rough estimates. If the City Council decides to pass a regulatory ordinance, actual revenue may vary significantly from this estimate. The revenues below assume a level of 6% on gross receipts from dispensaries and a $15 per square foot business tax applied to cultivation facilities and also include the City's 1% share of sales tax on all sales from dispensaries. Transfer from cultivation facilities to dispensary facilities would not be taxable under the current ordinance, as both facilities would be owned by the same company.

Projected Medical Marijuana Taxes and Sales Tax Revenues			
	Patient Demand and Retention		
	Low	Medium	High
Current Ordinance	$ 850,000	$ 1,000,000	$ 1,250,000
Ordinance without local grow	$ 1,050,000	$ 1,300,000	$ 1,500,000
Ordinance without residency	$ 1,350,000	$ 1,800,000	$ 2,500,000
Ordinance without local grow and residency	$ 2,700,000	$ 3,150,000	$ 3,600,000

Tax Penalties

The State Board of Equalization (BOE) has the ability to investigate, audit, and impose financial penalties on a business that is believed to have underreported sales. The BOE has determined that medical marijuana transactions are subject to sales tax, and every medical marijuana business must obtain a seller's permit from the BOE. The BOE may utilize a number of tools to collect late tax payments, including liens, levies, garnishment of wages, and property seizure.

The current medical marijuana taxation ordinance includes penalties for businesses that are delinquent in tax payments. Delinquent tax payments include a penalty of 25% of the total amount due, if paid within 30 days of the original due date. A penalty of 10% is added for every day past 30 days the tax remains unpaid, and this will continue to increase up to a maximum of 100% of the total amount due if payment remains delinquent.

The City of Long Beach could also choose to revoke a business's CUP for delinquent or fraudulent tax payments.

Medical Marijuana Related Fees

In addition to the expected tax revenues detailed above, the City will charge CUP application and renewal fees. This would allow the City to recover costs associated with

staff's time involved in application review and approval. The City currently expects to charge medical marijuana businesses for a major CUP at a cost of $8,744, which is the standard cost for a major CUP. Assuming 18 permits, this would yield one-time revenue of $157,392.

Other California cities currently charge medical marijuana businesses an annual regulatory fee, allowing them to recover the costs associated with regulating medical marijuana. The City of Oakland and City of San Jose have developed annual regulatory fees that achieve nearly 100% cost recovery of expenses associated with medical marijuana regulation of their permitted businesses. The City of Oakland charges medical marijuana collectives an annual regulatory fee of $60,000. The City of San Jose charges $71,961.

Should the City Council pass an ordinance, it is recommended the City charge an annual regulatory fee, in addition to the CUP application and renewal fee, to recover the costs associated with regulation and enforcement of this industry. The City of Long Beach currently does not engage in the active regulation of medical marijuana, and the additional service of this regulation and the protection of permitted businesses and residents would entail additional costs to the City, as detailed above.

Any regulatory fee would need to comply with California Propositions 218 and 26, which require any fee to be imposed in an amount necessary to carry out the purpose and provisions of a regulation and to not exceed the costs of providing the regulation. The regulatory fee may not be used for an unrelated purpose. Alternatively, the City could recover costs associated with regulation and enforcement by charging medical marijuana businesses piecemeal for individual regulatory actions. It is suggested that a general regulatory fee covering as much of the regulatory and enforcement costs as feasible would be the best approach for having the least adverse impact on City services. It is important to note that this fee would not cover the costs of addressing unsanctioned businesses. The exact amount of the fee would be dependent on the ordinance requirements and the City services provided to enforce the ordinance.

Revenue Management and Allocation Policy

Other cities in California receive payments from medical marijuana businesses in cash, and it is anticipated that the City of Long Beach will receive tax and fee payments in cash. While there is no guarantee, it is expected that payment of taxes by sanctioned (and possibly unsanctioned) medical marijuana businesses could result in significant amounts of cash arriving periodically at City Hall. This presents a potential security risk, and additional workload. The Department of Financial Management's preliminary recommendation is to provide additional staff and security enhancements in the public area. The costs for additional staff and capital improvements are included in the fiscal impact analysis above. Exact cash receipt practices should remain confidential for the safety and welfare of City staff, armored courier operators, and medical marijuana businesses.

The other cities do not earmark medical marijuana special taxes and sales taxes to pay for costs associated with regulation. These revenues are part of the cities' General Fund and

can be allocated toward any purpose. Conversely, the cities' General Fund could be used to fund any shortfall in regulatory fee revenue.

Dedication of General Fund revenues for a specific purpose, such as medical marijuana enforcement, is generally considered an undesirable budget practice and ultimately restricts and limits the ability of the City Council to make budget decisions. If there is a shortfall in fees covering regulatory/enforcement costs, it is recommended that the expense simply be budgeted as a new service cost.

In accordance with current budget policy, in the first year of a new program revenues generated by the program are only budgeted at a very conservative level unless the revenue is highly predictable. In addition, start-up and initial collection delay issues usually mean less than a full year of revenue is available. This policy protects the budget from overstating revenues that may not materialize. Only after about a year of experience with actual collections can revenues be predicted and budgeted at a level based on experience. As such, medical marijuana tax revenues should not be budgeted in the first year of medical marijuana regulation at the level projected, but at a much more conservative level until experience provides a better guideline for projections.

LEGAL ISSUES

2.2: Identify the legal issues associated with restricting or not restricting the sale of medical marijuana to City residents only.

Since the purpose of the ordinance is to provide safe access to medical marijuana to resident patients within the city, the City may be able to restrict or limit access to residents only. The City would be required to demonstrate a rational basis for this position. However, it may be easier to enforce a residency requirement against the business operators, rather than patients, if the Council is concerned about the operators' regard for the local community.

Colorado and Washington both utilize residency restrictions in some capacity. Colorado requires business operators to have lived in the state for at least two years prior to operating a dispensary and to grow the vast majority of the marijuana sold. Additionally, Colorado prohibits nonresidents from obtaining medical marijuana and severely limits the volume of recreational marijuana that can be purchased. Washington also requires business owners to reside in the state for three months prior to obtaining a license to operate a dispensary.

3.3: Review the square footage limits of cultivation sites and dispensaries and provide recommended sizes based on the experience of other cities.

Other cities vary based on their regulation of marijuana dispensaries and cultivation. Most California cities continue to ban dispensaries and cultivation within their boundaries, but some do allow it and have limits on the square footage and wattage permitted. For example, Rancho Cordova allows 25 square feet for cultivation, most Northern California cities and counties (San Francisco, Chico, Anderson, Arcata, Eureka, etc.) limit cultivation

to 50 to 100 square feet depending on the location, and West Hollywood limits the total space to 4,500 square feet and permits cultivation in only 1,500 of that space.

As proposed, the ordinance contains the following square footage limits:

- The area of a medical marijuana business dispensary is two thousand (2,000) square feet or less and at least five hundred (500) square feet are dedicated to a lobby and/or waiting area;

- The area of a medical marijuana business cultivation site is five thousand (5,000) square feet or less;

CONCLUSION

With the presentation of the above information, staff has completed its efforts to address the City Council's questions/issues regarding the proposed ordinance raised on February 10, 2015. The Medical Cannabis Task Force continues to meet, and will be provided with copies of this memorandum. Staff stands ready to address any additional questions the City Council may have.

Please let me know if you require additional information.

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Attachment

cc. Charles Parkin City Attorney
Douglas P. Haubert, City Prosecutor
Laura L. Doud, City Auditor
Tom Modica, Assistant City Manager
Arturo Sanchez, Deputy City Manager
Amy J. Bodek, Director of Development Services
John Gross, Director of Financial Management
Michael DuRee, Fire Chief
Robert Luna, Chief of Police
Kelly Colopy, Director of Health & Human Services
Kendra Carney, Deputy City Attorney
Lisa Lopez, Police Commander

City of Long Beach
Working Together to Serve

Memorandum

Date: March 24, 2015

To: Mayor and Members of the City Council

From: Patrick H. West, City Manager

Subject: **Medical Marijuana Information**

On February 10, 2015, the City Council directed staff to provide additional information pertaining to the proposed medical marijuana ordinance. The attached document summarizes the proposed ordinance and presents the outcomes of staff's research and analysis to date relating to the City Council's questions identified in the memo dated February 17, 2015.

As was noted in the aforementioned memo, some of the subject matter questions require substantial research. In those instances where the information is not yet available, staff has indicated a timeline for completion.

Also attached for your reference are the Council district maps, which have been updated to reflect 1,000 foot buffers from libraries and licensed childcare facilities, including preschools.

Please let me know if you require additional information.

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Attachments

cc. Charles Parkin City Attorney
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Requested Medical Marijuana Information

March 24, 2015

SUMMARY OF PROPOSED ORDINANCE

In May 2010, the City Council adopted Long Beach Municipal Code (LBMC) Chapter 5.87 to permit and regulate medical marijuana businesses within the City of Long Beach. Under Chapter 5.87, a medical marijuana business could be a dispensary facility, a cultivation facility, or a combined dispensary-cultivation facility. Each medical marijuana business facility required a unique permit issued by the Department of Financial Management, and medical marijuana businesses could not locate in residential areas or near schools and parks. All marijuana sold at a medical marijuana business must have been grown within Long Beach, and all marijuana grown within Long Beach must have been sold at a medical marijuana business within Long Beach. The City of administered this ordinance under a lottery system, and although there were nearly 40 lottery "winners," no permits were ever issued because of ongoing litigation.

In February 2012, the City Council repealed LBMC Chapter 5.87 and enacted LMBC Chapter 5.89, which banned all medical marijuana businesses within Long Beach.

The City Council is now considering a potential ordinance to repeal Chapter 5.89 and to permit and regulate medical marijuana businesses within the City. Under the proposed ordinance as recommended by the Planning Commission, a medical marijuana business could be a dispensary facility and a cultivation facility at separate locations or a combined dispensary-cultivation facility. Each medical marijuana business must include both a dispensary and a cultivation facility and would require a unique Conditional Use Permit issued by the Department of Development Services. Each medical marijuana business would also require a Long Beach business license and any other applicable licenses and permits, required by local, state, and federal laws. All facilities must be within the City of Long Beach, and each dispensary can only sell marijuana grown at its companion cultivation facility, which can only supply its companion dispensary.

Under the proposed ordinance, medical marijuana businesses can only locate in certain Commercial (dispensary only) and Industrial zones and cannot be near schools and parks. No more than 18 medical marijuana businesses may operate within Long Beach, but each Council District can have up to five (5) medical marijuana businesses. Only one (1) of these could be a stand-alone dispensary facility located in an allowed commercial zone. The remaining locations may be combined dispensary-cultivation facilities, stand-alone dispensary facilities, or cultivation facilities. As a result, a total of five (5) dispensaries may operate within a Council District, as long as four (4) of these operate in industrial zones.

Requested Medical Marijuana Information

March 24, 2015

SECTION 1: ENFORCEMENT AND REGULATION ISSUES

1.1 Distinguish between sanctioned and unsanctioned businesses as it relates to enforcement.

In the event the City Council institutes a new ordinance allowing medical marijuana businesses, "sanctioned" businesses will be those businesses that go through the City's entitlement process, receive a Conditional Use Permit (CUP), secure building permits, construct the improvements in accordance with all applicable codes and secure a business license. All other businesses would be considered "unsanctioned."

Sanctioned Businesses

Sanctioned businesses complying with City ordinances seem likely to generally run like a normal business with minimal normal enforcement issues and associated costs, except for tax reporting and collection. If the businesses do not comply with City Ordinances, they will likely have enforcement issues and costs similar to unsanctioned businesses. Sanctioned businesses in other cities have historically had significant costs associated with compliance with accurate reporting of taxes, tax collection, and associated audits. It is not clear yet whether these costs will be paid by the business, the City, or some combination. The high cost of reporting/audit is due to the businesses reporting in cash. This does not include any costs associated with required closed-loop system for the marijuana or its quality.

Unsanctioned Businesses

From past experience, we know that unsanctioned businesses will require time-consuming and expensive enforcement actions to pursue their closure. Based on Long Beach's experience and that of other cities, it is anticipated that there will be many more unsanctioned businesses than sanctioned ones. Other cities have seen a ratio of anywhere ranging from 3:1 to 7:1 of unsanctioned to sanctioned businesses. For the purpose of this report, the City will assume a ratio of 4:1. While previously unsanctioned businesses did not submit tax payments consistently, in the future, some may elect to pay taxes, but it is not clear whether there should be, or can, be any attempts to audit them.

Once it had been determined that an unsanctioned dispensary was operating, the Police Department would procure and serve a search warrant for the property. It would then work with the City Attorney's Office and Business Licensing to ensure the property owners that are leasing to the unsanctioned marijuana dispensaries are aware of its operations, as well as their own civil culpability should they allow that store to continue. Fines and liens may be levied against the operator and the property owner. Even then, our experience has shown it may take many months and substantial resources to shut down an unsanctioned business, and the number of unsanctioned businesses may very well exceed the City's capacity to enforce the ordinance.

Requested Medical Marijuana Information

March 24, 2015

1.2	**Discuss the desirability and feasibility of creating a Police Department medical marijuana detail to specifically handle any investigations and issues arising from medical marijuana businesses.** Should a regulatory ordinance be established, the Police Department will require a budgeted, full-time team to address complaints. At a minimum this team should be led by a Sergeant and consist of Detectives and administrative staff. A Sergeant is required because of policy requiring the presence of a supervisor at the service of a search warrant, in addition to the need for basic supervision. The detectives would conduct the necessary investigations. Administrative staff would work to produce evidence required to secure convictions for a felony filing of possession of marijuana for sale. They would also be tasked with assisting on case preparation, and such things as monitoring workload and criminal activity associated with a marijuana dispensary. Because it takes two years to bring on a new Police Officer, a new unit would necessarily take away from other existing Police Department operations (gangs, burglary, human trafficking, patrol, etc.).
1.3	**Discuss the feasibility of tracking police and criminal activity associated with medical marijuana operations.** While the Police Department has the ability to track calls for service at a specific address, calls for service for <u>any</u> ongoing issue may not list the actual address of the location in question. For example, the closest intersection, or even a nearby address with additional information, such as "across from 123 Main Street" may be used because persons calling our Communications Center may not know the actual address of the facility and use reference points or even their own address. Calls to 911 originating from the dispensary, itself, would obviously be tied to the address and, therefore, easily accessed; however, dispensaries rarely call police to report criminal activity. Additionally, any query into calls for service at a specific location must include a specific time frame. Because many of the marijuana dispensaries will not be permitted, staff is typically unaware of their actual start date. Some calls for service may not be identified as being related to a dispensary for some time. Subsequent calls for service reports will miss these calls for service. It is widely known in the law enforcement profession that there is an absolute correlation between drug use and property crime. However, this correlation may not be demonstrable. For example, an auto burglary that occurs miles away from a dispensary, but that was committed by a person looking to get money to pay for marijuana (medical or otherwise) will not be tied to any particular dispensary. The Police Department has recently made modifications to its Records Management System that will enable them to capture more of these incidents and increase their ability to address to them.

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1.4	**Provide information regarding the City Prosecutor's role in prosecution of unsanctioned businesses.** As a general matter, the City Prosecutor's Office prosecutes: (1) cases that are referred by Business Licensing (usually after they have contacted the business operator and tried to get them to register), and (2) cases that come after a police officer or other enforcement officer issues a citation for court, which could be, for example, a person peddling door-to-door without a license, or selling food from a cart on the street without a permit. Since the City never got to the point of issuing permits or licenses to any dispensaries, all of the cases handled by the City Prosecutor's Office dealt with dispensaries that were not permitted or licensed. When 5.87 was passed, the City Prosecutor's Office only went after those dispensaries that never even went through the permitting process. The City Prosecutor's Office did not pursue those dispensary operators that won the lottery and were told by the City they would get a permit eventually. Although unpermitted, these operators had a compelling defense – that the only reason they were unpermitted was because the City had not issued permits. Later, when 5.89 was adopted, all dispensaries became "unsanctioned," though no enforcement action was taken against the dispensaries that went through the lottery process until six months after the ordinance was passed since the City Council adopted a 6-month grace period for those dispensaries. A criminal case for violation of City code carries up to six months in jail and $1,000 fine. When a case is presented to the City Prosecutor's Office, it is reviewed to determine if a crime occurred, if the person accused committed the crime, if there is enough admissible evidence to prove the accused committed the crime, and other things that are related to whether a case should be filed criminally. While criminal prosecution is a powerful enforcement remedy, it is also a difficult one since prosecutors have to prove the case "beyond a reasonable doubt." This requires a lot of evidence, and a unanimous jury verdict. Additionally, the City Prosecutor's Office does not have discovery tools available to civil attorneys. For example, they cannot take depositions and force people to give statements. Defendants are not required to answer questions (and typically do not answer, upon advice of their attorneys) because they have a Constitutional right not to incriminate themselves in a criminal case. Thus, the primary focus of the City Prosecutor's Office in criminal medical marijuana cases has been, and will be, to close the dispensary and make sure the defendant does not participate in another dispensary at another location.

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1.5	**Provide additional information regarding the security requirements for medical marijuana businesses.** Since marijuana is a Schedule One controlled substance, is in high demand, and is highly profitable, the following are the Police Department's recommendations regarding security requirements for a marijuana dispensary: • Video Surveillance System – Digital video recorders operated on a network so recording occurs offsite. This prevents a person from destroying video evidence after removing the surveillance system during commission of a crime. Like any video surveillance system, the recordings should be made in high definition. Color video is highly desirable. Systems should be compliant with Long Beach Common Operating Picture (LBCOP) requirements and should be retained for a minimum of 30 days, as is the norm for other businesses. Cameras should adequately cover all entries/exits to the facility, all point of sale areas, entries/exits to secure internal areas, and any location inside the store where money is handled or stored. • Security Alarm – All points of entry to the facility should be alarmed to include glass breakage on windows and points of entry on rooftops. Motion sensors should be maintained in the interior of the facility and the system should automatically notify an alarm company of any detected security breach. • Panic Buttons – Manually activated panic alarms should be maintained by employees. Panic alarms should be directly connected to a security company that monitors the alarms and notifies police when an activation occurs. • Security guards – Security guard services should be contracted through an independent security company, and not be an employee of the dispensary. The Police Department has seen numerous situations where the security guard "worked" for the dispensary in exchange for marijuana. Such a person is not as interested in providing real security as they are in obtaining marijuana. At times, the Police Department encountered security guards that were not licensed and that did not conform to security guard requirements listed in the Business and Professions Code.
1.6	**Research methods of tracking and monitoring the yield of medical marijuana from cultivation to sale to ensure that all medical marijuana sold within Long Beach is grown within Long Beach.** Sections 21.XX.050 and 21.XX.110 of the proposed ordinance (actual numbers to be assigned upon ordinance adoption) require dispensaries to install and utilize "seed to sale" tracking systems to track the cultivation and eventual distribution of marijuana within the City. There are multiple companies that provide seed to sale tracking mechanisms. For example, a Google search results many seed to sale websites, the first three of which are BioTrackTHC, Quantum 9 Atlas Software, and Agrisoft Seed to Sale Software. Staff will investigate these tracking systems further and will report its findings by June 1, 2015.

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1.7	**Provide information on specific point-of-sale software to track sales and auditing methods to ensure that medical marijuana businesses do not underreport sales.** Point of sale equipment is only one way to track sales and ensure proper reporting of taxes. It is unlikely to be sufficient. Other methods could include cameras, various levels of auditing, and external control reviews. This area is one of many being reviewed by an outside consultant and additional information will be available by June 1, 2015.
1.8	**Provide relevant financial penalties and penalties impacting permit renewals for businesses that underreport sales.** As with any business, the State Board of Equalization (BOE) has the ability to investigate, audit, and impose financial penalties on a business that is believed to have underreported sales. It is not known if the BOE would treat sanctioned medical marijuana businesses any differently. This area is one of many being reviewed by an outside consultant and additional information will be available by June 1, 2015.
1.9	**Provide information on how the City intends to test medical marijuana for organic content levels and provide information to the public regarding the safety of medical marijuana establishments.** The proposed ordinance currently requires that product be tested in a lab meeting certain specifications, but does not currently require the City to do any testing as this is infeasible. The Health Department does not currently have the infrastructure, nor the resources, to conduct the requested testing in the City's Lab and it is beyond the scope and function of the Department to evaluate the purity, potency, or dosage of commercially produced pharmaceuticals. Pharmaceutical testing is generally performed by the FDA or State Food and Drug Branch, but they do not test marijuana. Any requirement for the testing of medical marijuana as to organic content and safety would be relegated to a third-party provider. If such a requirement is implemented, the Health Department would need to rely on a third-party testing agency for any testing and certification of the product. Such an agency could be employed by the City or the individual marijuana vendor. If the City Council desires that the City of Long Beach test marijuana, staff could return with a study.
1.10	**Research the possibility of developing a visible grading system to inform patients of the health and safety standards of medical marijuana facilities and their products.** Unlike the County of Los Angeles, the City, through its Health Department, does not currently issue letter grades to establishments where inspections occur. Long Beach went through a lengthy and detailed community process to establish the system that is utilized today. Additionally, the Health Department has not been in the business of regulating marijuana in the areas of edibles, THC levels, chemicals, dosages, etc. If the City Council were interested in this, the Health Department would bring on the appropriate consultants to guide us through this process and develop a budget for whatever new division/positions would be needed to implement this requirement.

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1.11	**Research a marijuana equivalent intoxication level and relevant penalties for residents operating vehicles under the influence of marijuana.** Like with alcohol, driving a car under the influence of marijuana, or any other drug, is illegal. Unlike alcohol, however, there is no concentration level of THC in the blood where a person is presumed to be under the influence. A person charged with driving under the influence of marijuana would be arrested pursuant to section 23152 or 23153 of the California Vehicle Code. To be convicted of driving under the influence of marijuana, a prosecutor would have to show a person was, as a result of having consumed marijuana, physically or mentally impaired so as to not be able to safely operate a motor vehicle. Testing equipment has existed for quite some time to test blood alcohol concentration, but similar equipment for testing THC is relatively new. However, there is not really a need for such testing equipment since there is no law specifying a presumptive minimum for marijuana intoxication. There is debate surrounding a scientific correlation between THC levels in the blood and a person being "under the influence." This is because some studies have shown THC can remain in the blood for quite some time after the effects of the drug have gone. The current assessment method of someone's impairment is to establish if marijuana was, in fact, recently consumed, via personal observation, smell, admission, etc., and then document performance on a standardized field sobriety test. An even better assessment would be the above, coupled with an examination conducted by a certified Drug Recognition Expert (DRE). Currently the Police Department has only a few certified Drug Recognition Experts; more would be needed. The second portion of this question asked about relevant penalties for driving under the influence of marijuana. Again, driving under the influence of marijuana is already illegal and penalties are assessed via the California Vehicle Code. This crime is a misdemeanor crime unless injury is caused to any other person or a person is convicted of a fourth driving under the influence offense in a 10-year period. There are license suspensions imposed by the DMV that are independent of the courts.
1.12	**Research the requirement of posting the photos of fraudulent medical marijuana ID holders to medical marijuana businesses.** The Medical Marijuana Identification Card (MMIC) system was created by the State under the Medical Marijuana Protection Act of 2003. There is no requirement that an MMIC be obtained in order to obtain medical marijuana, and few people do actually obtain one. An individual can go to any number of doctors that advertise as being "marijuana doctors" and get a marijuana recommendation. The Medical Board of California has jurisdiction over those who issue marijuana recommendations. Thus, it is not believed that the practice of posting fraudulent MMIC holders would be particularly effective. That said, the City Prosecutor currently operates a "Johns exposed" program posting photos of those convicted of soliciting prostitution, and such a program for marijuana would probably be best reviewed in that Office.

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SECTION 2: LEGAL ISSUES	
2.1	**Review the possibility of including a local hire requirement or incentive for medical marijuana businesses.** State law allows only a "primary caregiver" to provide marijuana to a patient if the patient is unable to obtain it or cultivate it himself. A primary caregiver is defined by case law as someone who consistently provides for a patient's housing, health, and safety. Dispensaries merely require patients to complete a form summarily designating the business owner as their primary caregiver and then offering marijuana in exchange for cash "donations" which is legally problematic. The City should not interfere with this tenuous relationship further by making any sort of requirement or offering an incentive relating to local hire.
2.2	**Identify the legal issues associated with restricting or not restricting the sale of medical marijuana to City residents only.** This is a very complicated legal issue and requires additional time for a thorough response. A response is anticipated by June 1, 2015.
2.3	**Provide justification of why the proposed ordinance is more restrictive than the previous ordinance adopted by the City Council in 2010.** Based on prior experiences of the various City departments involved in the regulation of medical marijuana dispensaries, every aspect of the current draft ordinance is more restrictive and/or thorough than the City's previous ordinance. The location restrictions, zoning requirements, audits, tracking, seed to sale systems, security required, point system incentives, testing, and labeling requirements all exceed the prior attempt to regulate these locations. Given the huge negative impact of unsanctioned businesses experienced by the community when the 2010 ordinance was adopted, these requirements were designed to reduce potential nuisance issues that could arise. For example, the previous ordinance was contained in Chapter 5 of the LMBC, which does not address zoning districts. That allowed dispensaries to be located anywhere within the City, subject to buffers, without regard to compatibility with adjacent land uses. The current draft ordinance resides in Title 21, Zoning Code, of the LBMC. This allows for the thoughtful placement of this type of use in appropriate zones. The current draft ordinance proposes that dispensaries be allowed only in the CHW and CCA zoning districts. This zoning district typically allows more variety of land uses, is more auto-oriented and more likely to be on a transit route, and has a larger separation from adjacent residential neighborhoods. The current draft ordinance also restricts cultivation to industrial areas in order to reduce potential nuisance issues, such as large amounts of deliveries, potential odors from the cultivation operations, etc. In addition, the previous ordinance did not require a security plan, audits, cultivation limits on quantity or location, or packaging. Due to the increase in crime associated with the dispensary locations during the previous ordinance, as well as safety issues with

	edible products and unpermitted cultivation construction, the new draft ordinance seeks to better regulate the elements of a dispensary.

SECTION 3: PERMITTING AND ZONING

3.1	**Review the local cultivation requirement and research if other cities have enacted such requirements.** There are several cities in California that regulate or ban cultivation within their jurisdictions. However, it does not appear there are any cities that currently require marijuana distributed within the city to be cultivated there as well. It is important to reiterate the primary reasons for the local cultivation requirement: • Such a requirement strengthens the City's ability to accurately track "seed to sale" since the City could inspect the facilities for compliance and/or to ensure they meet the standards required by the ordinance. Without this requirement, the City loses the ability to do this. • Allowing cultivation outside of the City promotes black market activity and makes it much easier for dispensaries to open and it is likely we would see more frequent illegal dispensaries popping up throughout all areas of the City. • When cultivation is not regulated there is increased potential for diversion. Diversion occurs when there is an inability to track product amounts and sales dollars. Failing to control where product is grown, and who the growers sell to, will prevent the City from collecting all potential revenue and cause potential reporting irregularities to occur. There is no way to validate how much product is being purchased by a dispensary and in turn sold to medical patients. Without knowing that incoming product amount and outgoing purchase price the potential exists for some product to be diverted to some other market. • The transportation of marijuana for sale is inherently dangerous, and the requirement to cultivate in the City is a safety measure. Between 2010 and 2013, the Police Department investigated shootings, robberies, and a fire caused by an incendiary device all related to marijuana dispensaries. The Police Department requested this element of the ordinance originally in 2010, and has continued to prefer the requirement as a means to limit the amount of marijuana being brought into the City for sale by other entities. It is anticipated that Long Beach's revenue experience will differ from the revenue experiences of other California cities that do not have local cultivation requirements.

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3.2	**Examine the requirement of both cultivation and dispensary sites being leased at the time of application and provide a recommended direction to the City Council.** There is no requirement for cultivation or dispensary sites to have executed leases prior to receiving land use entitlements. All requests for land use entitlements simply require the acknowledgement or approval of the property owner. This process prevents individuals from planning and entitling a project on private property without the owners' knowledge. This requirement does not extend beyond having the owner's permission. It does not require a business to have executed a lease. This is standard practice across all types of businesses and is not a requirement unique to the medical marijuana industry. Staff is not comfortable making a recommendation to change this practice for two reasons: (1) eliminating the requirement for property owner consent opens the City up to liability from unscrupulous businesses who plan and pull permits for a property not under their ownership; and (2) getting involved in negotiations between a proposed tenant and an owner could lead to charges of tortious interference.
3.3	**Review the square footage limits of cultivation sites and dispensaries and provide recommended sizes based on the experience of other cities.** The proposed ordinance sets forth general maximum square footage requirements related to cultivation sites and dispensary sites. These requirements were determined through a combination of reviewing general inventories of available spaces throughout the City; analyzing the square footage requirements based on the projected number of patients being served by each dispensary; and, based on past negative experience dealing with cultivation sites that were larger than the sizes recommended, which resulted in significant fire/life safety concerns and nuisance activities. Additional research on the square footage limits employed by other cities will be conducted and will be reported to the City Council by June 1, 2015.
3.4	**With regards to permit scoring and renewals, consider additional bonus points for previously vetted and successful lottery applicants and additional penalty points for those that did not close in a timely fashion.** The draft ordinance provides an additional point to applicants who were previously successful lottery applicants in the City's 2010 process. The number may be increased should the Council decide to provide further consideration to these operators. However, adding a penalty for those applicants who did not previously close in a timely fashion would cancel out the additional incentive. Because of lawsuits, none of the prior applicants was ever able to obtain a permit, and thus were never fully "vetted." And, those who had been successful in the lottery, remained open well past the six months allotted. No dispensary closed in a timely fashion. It should also be noted that many of the successful lottery applicants have changed their affiliation so the same individuals are not involved and/or have abandoned their original location.

3.5	**With regards to renewals, consider the impact of allowing law-abiding operators to expand their businesses during the permit renewal process.** The size restrictions are contained in the ordinance and would need to be amended to increase the allowable square footage of an operation. However, increased square footage has the potential to create additional impacts to the adjacent neighborhood if the maximum allowable size is not defined up front. For example, if a dispensary moved into an existing location with limited parking, and then wished to expand its operation, the parking impact would be exacerbated, perhaps having a spillover effect into the adjacent neighborhood. Expanding the operation may also require additional costly renovations due to increased occupancy loads, etc. Further, as part of the renewal process, the City would need to consider the parking impact and the initial footprint, as well as impacts from delivery vehicles, additional foot traffic, etc. It is unlikely most storefront dispensaries would choose to expand; instead, it is likely that the businesses would only request to increase the size of the cultivation area. This is a policy decision that is best to consider after a sufficient time has passed to determine the need for greater cultivation within the City, and the City's ability to effectively enforce the ordinance.
3.6	**Provide justification of the five-year time period for the permit.** The City of San Diego imposes five-year review limitations on some conditional use permits, including CUPs for medical marijuana dispensaries. This will allow the City to revisit the issue and impose or alter conditions if necessary. Due to Long Beach's previous experience, the many unknowns relating to the operation of medical marijuana businesses and the related impact on the local community, as well as the ever-changing law pertaining to this industry, a five-year permit provides the City some flexibility to ensure the needs of the community are met and that the City can adapt to keep pace with the developing industry.
3.7	**Provide updated maps, depicting new buffer zones for libraries and commercially licensed early child care facilities.** Updated maps are provided for City Council review. The maps were updated to reflect 1,000' buffers from libraries, including the site of the new North Library, and licensed childcare facilities, including preschools. The State Department of Social Services categorizes day care uses based upon the age of a child, mental health, and the number of children cared for. They are categorized into child care centers-preschool, family child care home, child care center-school age, child care center-infants, child care center-mental ill, and small family child care home. The revised maps include all centers (infant, school age, mental ill, and preschool). There are over 100 day care centers citywide. The addition of this land use category reduced the availability of commercial zoning districts where dispensaries are allowed in Council districts 2, 4, 5, 7, 8 and 9.

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SECTION 4: REVENUE MANAGEMENT	
4.1	**Provide information on payment receipt and management issues.** While there is no guarantee, it is expected that payment of taxes by sanctioned (and possibly unsanctioned) medical marijuana businesses could result in significant amounts of cash arriving periodically at City Hall. This presents a potential security risk, and additional workload. There are many ways to address this risk, some very expensive. Cost and approach may also depend on the volume of business and the amount of the payments. This area is one of many being reviewed by an outside consultant and the Police Department. Additional information will be available by June 1, 2015. However, subject to additional review, it is currently expected that payment will be received at a cashier window and that process will require additional cashiering staff, additional armed security, and additional armored courier services on an ongoing basis, along with some onetime costs for cameras, cash counters, etc.
4.2	**Research methods of accepting payments from medical marijuana businesses.** Payment is expected in cash at this time, but the Financial Management Department is reviewing potential options in conjunction with their consultant. Results of this review will be provided by June 1, 2015.
4.3	**Identify any additional security measures required.** Please refer to 4.1.
4.4	**Describe how payments accepted from medical marijuana businesses will be received by the City's bank.** After a review of experience in other cities, it is not anticipated there will be any issue with banks accepting the City's daily deposits, which will include the medical marijuana tax payments. The Financial Management Department has not discovered any issues in banks accepting payments from local governments regulating medical marijuana.
4.5	**Describe the appropriate methods of tracking and auditing the sales of medical marijuana businesses to ensure full tax payments.** Please refer to 1.7.

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SECTION 5: FISCAL IMPACT ANALYSIS AND STAFFING IMPACTS	
5.1	**Prepare a fiscal impact analysis of medical marijuana on City revenues and operations.** The Financial Management Department is working in conjunction with City departments and an independent consultant to calculate the fiscal impact of the potential medical marijuana ordinance on the City as a whole. We know additional personnel and/or enhanced overtime, would be necessary in several departments, including Police, Fire, City Attorney, City Prosecutor, Development Services, Financial Management, and possibly Health and the City Manager's Office. We also know there will be some revenue resulting from the implementation of a new ordinance. The full fiscal impact analysis will be provided by June 1, 2015. Specific information on research progress on both revenues and costs are provided in the following responses.
5.2	**Provide projections based on the allowable tax rates within the Long Beach Municipal Code.** The Financial Management Department has engaged a consultant experienced in the regulation of medical marijuana to develop revenue projections based on the potential Long Beach ordinance. The consultant is researching revenue from benchmark cities in California, including Oakland, San Jose, and Sacramento, to develop realistic revenue projections for the City of Long Beach. The consultant is incorporating the specific features of the potential Long Beach system, such as the closed loop system and allowable tax rates, to develop revenue projections. Because of the time needed to identify and hire a consultant with the expertise on the subject matter and the time needed for the consultant to conduct a thorough and accurate analysis, it is expected that the projection will be available June 1, 2015.
5.3	**Consult with cities with legal collectives and the California State Board of Equalization to help calculate revenue projections.** As stated earlier, the Financial Management Department's consultant is engaging with California cities with existing medical marijuana regulatory systems and with the California State Board of Equalization to develop accurate revenue projections.

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5.4	**Project estimated costs associated with administering services related to sanctioned medical marijuana businesses and enforcement operations for expected unsanctioned businesses. These projections will include estimates for additional staff, support services, and relevant materials costs for the Police Department, Fire Department, City Prosecutor, City Attorney, Department of Development Services, and Department of Financial Management. If projections indicate a deficit in the medical marijuana budget, staff will provide an estimate of any General Fund subsidy needed to sustain City services to ensure public safety and efficient regulation. If projections indicate a surplus in the medical marijuana budget, staff will provide an estimate of any surplus that could be allocated to public safety departments or other departments, at the City Council's discretion.** The Financial Management Department is working with departments and in collaboration with a consultant to determine the potential revenues and costs of the proposed City ordinance on medical marijuana. The Department will provide a fiscal impact report of the proposed ordinance on the City of the Long Beach, including the named departments above as well as the Health Department and City Manager's Office, which would also be impacted by the proposed ordinance, by June 1, 2015. Both one-time costs and ongoing costs related to staff, support services, and materials, along with estimated revenue projections will be provided. Initial research indicates that benchmark cities employ a total of 7-10 FTEs to regulate medical marijuana, including planning, permitting, oversight, litigation, and a base level of enforcement activities. If it is the City Council's desire that the City have a very aggressive program to deal with unsanctioned businesses, a more significant number of employees will need to be added. The California cities that currently have ordinances are not as aggressive to unsanctioned businesses as Long Beach was under its previous ordinance.
5.5	**Investigate how other cities that permit medical marijuana manage both surpluses and deficits and provide the City Council with the results of their investigation.** The Financial Management Department's consultant is currently engaged to review revenues and expenditures associated with medical marijuana in other California cities. Their analysis will be ready June 1, 2015.
5.6	**Provide a fiscal impact analysis, broken down department by department, estimating the costs of enforcing the City's existing medical marijuana ban.** The Financial Management Department has requested records and estimates of enforcement costs incurred to date from relevant departments. A calculation of costs will be provided by June 1, 2015.

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5.7	**Provide time estimates based on the current resources available for the City's implementation of a potential medical marijuana ordinance.** The City does not currently have the resources to successfully implement and manage a medical marijuana ordinance. If an ordinance were adopted without additional resources, the City would experience the same types of problems encountered with the prior ordinance, perhaps to an even greater degree. Further, even if additional resources were found, there would need to be a minimum of a one-year preparation period as staff would need to be hired through Civil Service. Additionally, the Police Department would need to decide which current enforcement operations would be reduced to provide a marijuana enforcement detail. Also, consultants would need to be interviewed and hired, and appropriate policies and procedures would need to be developed to be fully prepared for the ordinance implementation. The estimated costs related to staff, support services, and materials required to support an ordinance, along with estimated revenue projections, will be provided by June 1, 2015.