



**COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Administrative Office	(2) MEETING DATE 7/16/2024	(3) CONTACT/PHONE Sarah Hayter, Administrative Analyst (805) 781-1599	
(4) SUBJECT Request to 1) approve responses to the FY 2023-24 Grand Jury report titled "Growing Pains: The Cannabis Industry in San Luis Obispo County"; and 2) forward the responses to the Presiding Judge of the Superior Court by August 17, 2024.			
(5) RECOMMENDED ACTION It is recommended that the Board: 1. Adopt the recommended responses from the County Board of Supervisors (Attachment 2) to the FY 2023-24 Grand Jury report titled "Growing Pains: The Cannabis Industry in San Luis Obispo County"; 2. Direct the Clerk of the Board to forward the responses to the Presiding Judge and the Grand Jury by August 17, 2024; and 3. Receive and file responses from the County Sheriff's Office to the San Luis Obispo Grand Jury's 2023-24 report titled "Growing Pains: The Cannabis Industry in San Luis Obispo County."			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0	(8) ANNUAL FINANCIAL IMPACT \$0	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT ☒ Consent ☐ Presentation ☐ Hearing (Time Est. _____) ☐ Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS ☐ Resolutions ☐ Contracts ☐ Ordinances ☒ N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A ☐ 4/5th's Vote Required ☒ N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY ☒ N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW This item was prepared by the Administrative Office.			
(18) SUPERVISOR DISTRICT(S)			



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Administrative Office / Sarah Hayter, Administrative Analyst
(805) 781-1599

DATE: 7/16/2024

SUBJECT: Request to 1) approve responses to the FY 2023-24 Grand Jury report titled "Growing Pains: The Cannabis Industry in San Luis Obispo County"; and 2) forward the responses to the Presiding Judge of the Superior Court by August 17, 2024.

RECOMMENDATION

It is recommended that the Board:

1. Adopt the recommended responses from the County Board of Supervisors (Attachment 2) to the FY 2023-24 Grand Jury report titled "Growing Pains: The Cannabis Industry in San Luis Obispo County"; and
2. Direct the Clerk of the Board to forward the responses to the Presiding Judge and the Grand Jury by August 17, 2024; and
3. Receive and file responses from the County Sheriff's Office to the San Luis Obispo Grand Jury's 2023-24 report titled "Growing Pains: The Cannabis Industry in San Luis Obispo County."

DISCUSSION

On June 18, 2024, the San Luis Obispo County Grand Jury (Grand Jury) issued a report titled "Growing Pains: The Cannabis Industry in San Luis Obispo County" (Attachment 1). The report investigated how the cannabis industry has developed in San Luis Obispo County.

The Grand Jury report included four findings and three recommendations. Responses were required as follows:

Department	Recommendations
County Board of Supervisors	R1, R2
Sheriff-Coroner	R3

All responses must conform to the response language and timelines required under Penal Code section 933. Under this section, Board adopted responses must be submitted to the presiding judge of the superior court within 90 days of the date the report is released.

The responses from the County Board of Supervisors are scheduled to be transmitted to the Presiding Judge and the Grand Jury by August 17, 2024. The recommended responses from the County Board of Supervisors are attached.

OTHER AGENCY INVOLVEMENT/IMPACT

The County Administrative Office and the County Sheriff drafted the recommended responses to the Grand Jury report.

FINANCIAL CONSIDERATIONS

Costs for preparing this response are included in current department budgets. There are no significant anticipated financial impacts to the County budget that will result either directly or indirectly from the recommended action. Any future financial impacts associated with the recommended action will be considered as they arise.

RESULTS

Adoption of the responses will make it possible for the County to meet the legal requirements and time frames for responding to a Grand Jury report with findings and recommendations. The responses from the County Board of Supervisors to the FY 2023-24 Grand Jury report titled "Growing Pains: The Cannabis Industry in San Luis Obispo County" will be adopted and transmitted to the Presiding Judge and the Grand Jury as required. This action is consistent with the County's goal to promote a well-governed community.

ATTACHMENTS

- 1 Attachment 1 - FY 2023-24 Grand Jury Report - Growing Pains: The Cannabis Industry in San Luis Obispo County
- 2 Attachment 2 - Agency Response from Board of Supervisors
- 3 Attachment 3 - Agency Response from the Sheriff's Office (informational only)

RESPONSE TO GRAND JURY REPORT

Report Title: “Growing Pains: The Cannabis Industry in San Luis Obispo County”

Report Date: June 18, 2024

FINDINGS

1. I (we) agree with the findings numbered: _____
2. I (we) disagree wholly or partially with the findings numbered: F1, F2, F3, F4
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons.)

RECOMMENDATIONS

1. Recommendations numbered _____ have been implemented.
(Attach a summary describing the implementation actions.)
2. Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
3. Recommendations numbered _____ require further analysis.
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of the publication of the Grand Jury report.)
4. Recommendations numbered R1, R2 will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Number of pages attached: 3

FINDINGS

F1. The current fee revenue from the Cannabis Program in San Luis Obispo County is insufficient to support the SOCCU at its current level, preventing the program from being cost neutral as required by Board of Supervisors' policy.

☒ We Wholly or Partially Disagree with the Finding for the following reasons:

The County of San Luis Obispo Cannabis Program includes permitted (legal) and unpermitted (illegal) cannabis activities. Since the Board of Supervisor's adoption on September 20, 2016, of the temporary urgency ordinance and subsequently the permanent ordinance on November 27, 2017, County Departments have been working internally and with outside agencies to develop and continually improve the Cannabis Program including the permitted and unpermitted activities, and the resources needed to successfully manage all aspects of the County's Cannabis Program. There are some components of the legal program as well as the majority components of the illegal program where the County has limited ability to fully recover costs. It is important to note that while the Board's policy is to fully recover the costs of providing services, this only applies to services which carry a specific benefit to an individual or entity. In other words, the fees only pay for the services being provided (i.e. background checks, inspections, etc.) and does not pertain to basic tax-supported services which benefit the broader community (e.g., law enforcement for illegal grows, etc.).

On September 13, 2022, the Board approved a number of fee changes aimed at full cost recovery of the legal cannabis service activities in order to continue the Board of Supervisors past practice of recovering costs from those who benefit from certain services the County provides beyond the basic tax-supported services. In addition, the Board transferred personnel and responsibilities for the Cannabis Monitoring Services, Cannabis Code Enforcement, Cannabis Investigations and Cannabis Nuisance Abatement activities to the Sheriff's Office and added 5.00 FTE positions to support the Compliance Monitoring Team under the Sheriff's Office. Subsequently, on June 20, 2023, the Board directed staff to bring back cannabis related items such as recommendations to expand delivery operations to 10:00 PM, an analysis of brick and mortar retail dispensaries, report on processing, permit timing, land use regulations, and an analysis of financial costs and revenues.

The Board received a presentation on the County's Cannabis Program on September 26, 2023 and directed staff to move forward on the following three de minimis actions: 1) refine the start of a permit lifespan to be the start of operation; 2) extend the mobile dispensary hours to staff's recommendation (8 a.m. to 10 p.m.) or to the State's regulation (6 a.m. to 10 p.m.) as indicated by Supervisor Ortiz-Legg; and 3) bring back ordinance modifications regarding the recovery of administrative costs as discussed by the Sheriff's Department and County Counsel.

Most recently on February 6, 2024, the Board considered an ordinance amending the Cannabis Fees for Fiscal Year 2024-25, effective July 1, 2024 approving fee increases for consistency with County policies and in accordance with "recover costs where reasonable" principles. Additionally, on July 9, 2024 the Board will review proposed ordinance amendments to cannabis cultivation permit expirations, hours of operation for non-storefront retail dispensary, and abatement cost recovery for unpermitted cannabis activities.

F2. The fees necessary to obtain a cannabis license in the County are significantly higher than surrounding jurisdictions, contributing to fewer than anticipated new license applications.

☒ We Wholly or Partially Disagree with the Finding for the following reasons:

The challenge lies in accurately comparing these fees due to differences in what each fee encompasses. Typically, the cost includes application fees, annual renewal fees, and possibly additional fees for background checks or other regulatory requirements. Additionally, the expenses differ depending on the type of operation. Further, there are other reasons why other jurisdictions have more cannabis operations such as allowing larger canopy area, and/or having a certified programmatic environmental impact report which the applicant can utilize.

F3. The Board of Supervisors has not conducted a review of staffing levels needed for the Cannabis Compliance Program to determine if the SOCCU is overstaffed relative to the number of active cannabis cultivators and applications for licenses.

☒ We Wholly or Partially Disagree with the Finding for the following reasons:

Since the inception of the Legal Cannabis program, County staff has presented the Board with a number of program updates. The Board approved the transfer of the Cannabis Program from the Department of Planning and Building to the Sheriff's Office on September 13, 2022, and approved the staffing requested by the Sheriff's Office. Staff has been able to manage the Cannabis program in a direction that keeps the community safe and operators compliant with the law and County cannabis policies. Assisted by MGT Consulting, LLC, assumptions were made to develop fees aimed at full cost recovery at the direction of the Board.

The Sheriff's Office conducted a time study in the Fall of 2023 concluding a full year of operations. With the newfound data, staff was able to recognize all operational needs and obligations to run a successful and safe Cannabis program. This information was reviewed and analyzed by the Administrative Office prior to the February 2, 2024 Fee Hearing. In addition, this information was taken into consideration during the FY 2024-25 Budget development process.

F4. The limited number of new applications in this fiscal year will not generate sufficient revenue to offset the cost of the SOCCU in the County budget, resulting in the program continuing to operate at a deficit.

☒ We Wholly or Partially Disagree with the Finding for the following reasons:

The cost of the SOCCU in the County budget includes both legal and illegal Cannabis operations. There are some components of the legal program as well as the majority components of the illegal program where the County has limited ability to fully recover costs. As indicated in Finding 1, fees related to cannabis activities are set to full cost recovery with exception to those specific fees the Board has directed otherwise. Proposed units of service are recommended based on actual units of service sold. The fees only pay for the services being provided (i.e. background checks, inspections, etc.) and does not pertain to basic tax-supported services which benefit the broader community (e.g., law enforcement for illegal grows, etc.).

It should be important to note that the FY 2024-25 adopted County Budget also includes revenue from the Cannabis Business Tax, budgeted at \$1,000,000 (8% tax rate). On June 24, 2024 the Board adopted a resolution maintaining the current 6% tax rate gross receipts for FY 2024-25 which is projected to collect \$750,000.

RECOMMENDATIONS

R1. The Board of Supervisors should conduct a review of staffing levels in the SOCCU relative to the number of licensed businesses and new applicants by December 31, 2024.

☒ The recommendation will not be implemented because it is not warranted or is not reasonable.

This recommendation will not be implemented since staffing levels are analyzed annually as part of the annual budget development process.

Since the Board of Supervisor's adoption on September 20, 2016, of the temporary urgency ordinance and subsequently the permanent ordinance on November 27, 2017, County Departments have been working internally and with outside agencies to develop and continually improve the Cannabis Program including the permitted and unpermitted activities, and the resources needed to successfully manage all aspects of the County's Cannabis Program.

In addition, since the inception of the Legal Cannabis program, County staff has presented the Board with a number of program updates, including a review of staffing levels. The Board approved the transfer of the Cannabis Program from the Department of Planning and Building to the Sheriff's Office on September 13, 2022, and approved the staffing requested by the Sheriff's Office. Staff has been able to manage the Cannabis program in a direction that keeps the community safe and operators compliant with the law and County cannabis policies. Assisted by MGT Consulting, LLC, assumptions were made to develop fees aimed at full cost recovery at the direction of the Board.

The Sheriff's Office conducted a time study in the Fall of 2023 concluding a full year of operations. With the newfound data, staff was able to recognize all operational needs and obligations to run a successful and safe Cannabis program. This information was reviewed and analyzed by the Administrative Office prior to the February 2, 2024 Fee Hearing. In addition, this information was taken into consideration during the FY 2024-25 Budget development process. Staffing levels will continue to be reviewed and analyzed annually as part of the annual budget development process.

R2. The Board of Supervisors should conduct an analysis of the current fee structure with the goal of becoming more competitive with neighboring jurisdictions by December 31, 2024.

☒ The recommendation will not be implemented because it is not warranted or is not reasonable.

This recommendation will not be implemented since fee structures are analyzed annually as part of the annual fee review process.

Fees help offset the cost of services which are beyond the basic tax-supported services provided by many County departments. The Board of Supervisors' Budget Policy 21, Cost Recovery Through Fees, directs departments to recover costs through fees where reasonable and after all cost-saving options have been explored. Most recently on February 6, 2024, the Board considered an ordinance amending the Cannabis Fees for Fiscal Year 2024-25, effective July 1, 2024 approving fee increases for consistency with County policies and in accordance with "recover costs where reasonable" principles.

County departments, including the Sheriff's Office, are currently conducting an analysis for any recommended fee revisions for the Fiscal Year 2025-26 fee review process. As part of the annual fee review process, County departments are directed to conduct a thorough analysis and justification for the fees they charge and to update their fee schedules annually. This involves reviewing any changes to the cost of providing a service and then working with the Auditor-Controller Treasurer-Tax Collector Public Administrator's Office (ACTTCPA) and the Administrative Office to determine that all laws, policies, and cost assumptions are correctly applied. In 1999, the Board decided to review annually only the proposed changes to the fee schedule and then once every five years conduct a comprehensive review of the fee schedule. The last comprehensive review was done for FY 2020-21 fees. Consequently, the public fee hearing scheduled for November 12, 2024, will be a comprehensive review to discuss and approve all FY 2025-26 departmental fees.