

January 5, 2012

RE: Agenda item 6B

Dear Supervisors,

Happy New Year! Welcome Supervisors McGourty and Mulheren! I hope you enjoyed healthy holidays and remain well.

In addition to supporting MCA concerns and recommendation previously submitted, I offer my own concerns and questions below.

Agenda item 6B is bizarrely written and thereby difficult to understand and address. As of this writing, there is a posted document further explaining the intent or thinking of the Ad Hoc Committee sponsoring this "discussion and possible action".

Please see my questions and concerns inserted in the agenda item text below. The supportive paragraph in the agenda is addressed after.

"Discussion and Possible Action Including (but not limited to...) Direction to Staff (which staff? We already established in multiple meetings that Planning and Building Staff is already overwhelmed, cannot process current applications, let alone previous Board directives to create a cannabis cultivation use permit ordinance and hemp ordinance while maintaining negotiations with CDFW re: a biologist contract and CDFA/CEQA negotiations on behalf of Phase 1 Permittees).

"to Develop a Framework (what kind of "framework"? An RFP, based on what criteria?? A list of consultants who perform CEQA services? Language for future ordinance approval consideration?

NOW IT GETS REALLY CONFUSING!

"for Approving Third Party Planning Consultants to Avail Phase 1 Cannabis Cultivation Applicants (new Phase 1 applicants, Phase 3 applicants? What about Permittees? Does this "discussion and possible action" include previously permitted cultivators?)

"with the Option to Directly Hire for Summarization of County Performed Review as Necessary (hire a consultant to summarize "County Performed Review". What County review? The Initial Survey and Mitigated Negative Declaration? Summarize what the County may do as CEQA lead agency on a site-specific application to CDFA? "As Necessary"?? Necessary to what agency, whom, under what regulation, included in what application? With the millions of tax dollars generated by the impacted cultivation licensees, it seems necessary and logical that the County hire a consultant to summarize "County Performed Review as Necessary" and report back to permittees regarding a resolution of County/CEQA conflicts. The County staff assured cultivators for several years that the MND covered us with state requirements...even after pressing staff in "Working Group" meetings three years ago! The County needs to remedy this conflict regarding state agencies, not "avail" applicants of the "option" to "hire" consultants to solve the County's mistakes.

"to Meet Site Specific Environmental Review Under the California Environmental Quality Act (CEQA) for Purposes of Seeking a State Annual License (Sponsor: Cannabis Ad Hoc Committee of Supervisors Williams and Haschak)". Without further detailed information, definition and clarification, how can the Board or anyone, determine if the public has had sufficient notice to comment to the elected representatives regarding action on this agenda item.

How can the new Supervisors possibly know the background on this agenda item?

How can the Ad Hoc recommend a process, albeit vague and confusing, suggesting a consultant be hired by "applicants" to summarize County work product? The County must be responsible for defending/amending/creating its regulatory responsibilities as lead agency under CEQA statute as well as local ordinances. Why now the recommendation that consultants are hired by applicants, presumably to lessen County responsibility? And if the inference is for applicants to hire consultants to perform site-specific review and reports or NOEs, I question motives. The Ad Hoc has already rejected applicants submitting site-specific CEQA review to CDFA...because...such applications are expensive and time consuming for small farmers and in their negotiations with CDFA they have established that the agency does not have staff to process Mendocino County's hundreds of permittees and many more hundreds of applicants. CDFA was able to process only 20 site-specific application in the ENTIRE state last year?

How is this agenda item going to move County Phase 1 permittees closer to an Annual State License?

Most pressing to me personally, is what can I do to continue operating legally in the County after submitting my cultivation permit renewal in late January? Will Planning and Building Services delay a renewal based on the unresolved CEQA, CDFW and local ordinance issues?

Why would a permittee pay nearly \$5,000 fee for a cultivation permit renewal if all items discussed above may/will prevent me from securing a renewal, even if all other requirements are in order?

At the very least, I sincerely recommend in the Board's "discussion and possible action" regarding a pathway for permittees to secure Annual State Licenses that the Board vote to EXTEND ALL CULTIVATION PERMIT RENEWALS UNTIL DECEMBER 31, 2021, which will allow County and State Provisional License regulations to coordinate timetables and further define an acceptable pathway for current Provisional Licensees to qualify for Annual State Licenses (unless extended by the State). This is a fair and reasonable permit extension provided all other County renewal requirements have been submitted to the Cannabis Manager by the current renewal date to allow typical compliance review. The paragraph link in the agenda, equally confusing in intent and execution to implement policy.

"1) Direct staff to implement and execute a framework for approving cannabis cultivation planning consultants based on merit, ability to adhere to county standards (what are the criteria to judge merit and ability to adhere to county standards? What is an anticipated scope of work for these consultants?),

agreement of appropriate indemnity and assurance that in the course of summarization, California Environmental Quality Act will be followed and only existing county records memorialized by a writing will be translated; Please clarify what this "agreement" requires in legal terms. "...in the course of summarization...only existing county records memorialized by a writing will be translated"? What is a "writing" in this context? What will be "translated"? From what to what? Is there intention to keep consultants from accessing or using some forms of County records or applicant records?

2) Direct staff to maintain publication of the list of approved cannabis cultivation planning consultants on the web site; 3) Direct staff to develop a third party consultant engagement package for Phase 1 applicants (you're suggesting staff develop a consultant package that applicants must subscribe to (and what about PERMITTEES) must use to contract with a consultant? This should be a contract between consultant and applicant, independent of what staff wants to include).

including agreement to release records (what records?)

to a consultant contracted by applicant, and a statement clarifying risks inherent in attempting to reuse County's phase 1 site specific review documentation for the purpose of state license.

(Please clarify the "risks inherent in attempting to reuse County Phase 1 site specific review documentation for the purpose of state license". And why would an applicant need a consultant in this context IF IT WAS NOT FOR THE PURPOSE OF STATE LICENSE??? This language may be aimed at protecting the County from legal challenge regarding its handling of local regulations and ignoring CEQA requirements years ago, but excluding use of County's Phase 1 site specific review documentation seems totally inappropriate and an impediment to achieving the Board's primary directive to Staff to find a pathway to Annual State Licenses. The conditions described appear as an attempt to exonerate the County while not helping permittees. What's the point of directing procedures with no benefit to permittees?

4) Direct staff to continue expeditious processing of Air Quality Management District permits and Sensitive Species and Habitat Review in collaboration with California Department of Fish & Wildlife". Again, what is "expeditious processing"? The Board has made specific directives to staff that continue to be unfulfilled, not properly prioritized or staffed. What happened to the CDFW Biologist contract, already negotiated? If this Board is to change anything in directing staff in an expeditious way, you will need to be specific and set deadlines. Remember, your Planning and Building staff has repeatedly told you they cannot process applicants in any reasonable time or to meet the state's Provisional License expiration deadline of 1/1/2022.

I sincerely hope the Ad Hoc will provide answers to my specific questions during their item introduction as public comments of 3 minutes will hardly cover the subjects.

Thank you for your attention to my concerns.

Sincerely,

Corinne Powell