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Mendocino County Board of Supervisors
501 Low Gap Road
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January 24, 2021

Re: 1/25/21 BoS Meeting Agenda Item 3b

Honorable Supervisors,

In all respects, at the heart of my comments, is the strong desire to ensure that enacted policies and procedures are designed to succeed. I am also strongly in favor of moving sensible cannabis policy forward and enacting ordinances that continue to promote sustainable economic development. In support of the advancement of such policies and in support of the positions that MCA puts forth, please consider the following:

A careful and critical examination of some of the technical and logistical impacts of the proposed ordinances should not be interpreted as an outright rejection of pursuing the most of the underlying goals, but in fact, should be undertaken to help ensure success of new programs. In that spirit, I strongly recommend that the Board direct the Ad Hoc and Staff work with me to review numerous technical and logistical concerns that I have identified. In some instances, the technical concerns involve simply a clarification of vague or conflicting language. In other instances, my concerns involve the practical implications of enacting provisions that could impede the success of a new program.

I respectfully request that at each and every juncture, before any decision is made or voted on, that each Supervisor asks:

1. Will it honor the commitment to existing operators, who in good faith have stuck their necks out and in many cases invested their life savings, to allow them the continuity of business activities by adhering to previously enacted rules as they work towards new and changed procedures and requirements as each new requirement or process is adopted?
2. Are there provisions that are worded in a manner that may create further confusion, which may benefit from further refinement?
3. Is the County actively choosing to be "out in front" with respect to some policies in relation to the State, in hopes, as has been done in the past, that the example will provide an important template for other jurisdictions and the state to follow? Or, was it unintentional that some of what is being proposed is not clearly in conformance with current state laws and regulations?
4. Have the mechanical logistics of each change or new policy been thought through with a specific process and mechanisms in place to implement the changes?

Question 1: I urge each Supervisor to explicitly ensure the continuity of business operations for Phase 1 applicants and permit holders.



Question 2: My careful review of the proposed ordinances has revealed many specific provisions that should be re-worded for technical reasons aside from any policy concerns. Examples are as small as the failure to reference M license types (only “A” license types are referenced in both the cultivation and facilities ordinances), and the incorrect reference to “this division” when referencing a state regulation as opposed to the local ordinance (on page 10 of the proposed facilities ordinance when referring to cannabis waste); some more substantial, potentially conflicting provisions (such as the requirement that all retailers be licensed with both the state and locally for business licenses, without necessarily having a mechanism at the state level to acquire the type of license envisioned or a requirement in the proposed cultivation ordinance that an applicant already have a state issued license despite the fact that one must have local authorization before a state license can be issued and that under a land use process, there may not be a way to obtain such permission before the conclusion of the land use process unless a specific provision has been established to allow for operations to be conducted in the mean time. Some provisions really should be better clarified (such as are the Findings required in section 22.18.100 (A) (2) appropriately worded as “no other environmentally superior location” versus using the more accurate and relevant CEQA requirement that a project be found to have a less than significant impact for wording of the Findings that must be made? There are many other items that would greatly benefit from further review and refinement that are probably simply typos (such as in the third to last paragraph of proposed Section 22.18.010.). Likewise, the proposed ordinance should be refined to ensure that it is consistent with state law, in places like the Table attached to the proposed cultivation ordinance that lists only a reference to 25 plants for a Specialty Cottage type license when the state has amended that license type to include 25 plants OR up to 2500 sq. ft.

In short, I have carefully reviewed the ordinance proposals and rather than enumerate each and every technical provision that could benefit from review, I request that the Ad Hoc and staff meet with me to go over the more extensive list of items I have identified.

Question 3: This County has importantly led the way on certain aspects of cannabis policy, including environmental protections. As a result of our early adoption, we have created an avenue for statewide change on a number of subjects. Now, it may be important to lead the way again. Specifically, ensuring the equal treatment of cannabis projects in all arenas of local permitting (building, business license, land use, and as much as possible, permit requirements). Considering early adoption of farm stands and “bud and breakfasts” is a wonderful thing to consider and pursue. Currently, state law does not specifically license those activities the way envisioned in the proposed ordinances, but that is not a reason to not lead the charge. Likewise, an examination of the local designation of cannabis as agriculture may be an important to adopt in order to move the state and federal needle forward on that issue. While I strongly advocate for Mendocino County to lead the charge on new and important areas that will assist sustainable economic development, it is important that the choice to do so is framed in that manner. Specifically, if those items are not identified as being vanguard issues, the expectations of the citizens who are not specifically aware that the passage of such items might not automatically and immediately



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translate at the state or federal levels, could lead to further confusion or a feeling that the goal post keeps moving if additional requirements are later overlaid. It is important that we continue to take a bold and forward thinking approach, but we should do so knowing that it may also require the movement of state and other regulations in that direction.

Question 4: If we are to establish new rules, it is imperative that the technical logistics and processes be thought through and established so that the implementation is not doomed from the start. Without advanced coordination with Staff and stakeholders, we run the risk of once again enacting programs that have no practical way to proceed. I respectfully request that the Board direct the Ad Hoc and Staff to receive input from stakeholders regarding the practical and technical portions of implementation of new rules and/or processes. The vantage point from operators can often provide valuable insight into issues not fully understood by Staff when crafting policies and procedures.

Thank you for your careful consideration of all of these matters. I remain available to work with any Board member, the Ad Hoc, and Staff to clarify or explore the items presented in this memo.

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