Regular Meeting of the
Concord City Council

Tuesday, August 13, 2019

Information for the public on participation at Council meetings can be found on the back of the Speaker Identification Card located near the Council Chamber entrance. Should you have any questions after consulting the Speaker Identification Card, please contact the City Clerk prior to the Council meeting.

AGENDIZED ITEMS – The public is entitled to address the City Council on items appearing on the agenda before or during the City Council’s consideration of that item. Each speaker will be limited to approximately three minutes.

1. OPENING

Roll Call

Pledge to the Flag - Councilmember Aliano

2. PUBLIC COMMENT PERIOD
This is a 15-minute Public Comment Period for items within the City Council’s subject matter jurisdiction that are not on this agenda. Each speaker will be limited to approximately three minutes. State law prohibits the City Council from acting at this meeting on any matter raised during the Public Comment Period.

3. PRESENTATIONS

4. ANNOUNCEMENTS
5. **CITY COUNCIL CONSENT CALENDAR**

The public is entitled to address the City Council on items appearing on the Consent Calendar before or during the City Council’s consideration of the Consent Calendar. Adoption of the Consent Calendar may be made by one motion of the City Council, provided that any Councilmember, individual or organization may request removal of an item from the Consent Calendar for separate consideration. If a request for removal of an item from the Consent Calendar has been received, the Mayor may defer action on the particular item and place the same on the regular agenda for consideration in any order s/he deems appropriate.

a. Considering – approval of minutes from the meetings of May 14 and 28 and June 4, 11, 19, and 25, 2019. Recommended by the City Clerk.

b. Considering – approval of an agreement between the City of Concord and Concord CenterCal, LLC, to operate a digital pylon sign at the Veranda; and authorizing the City Manager to execute the agreement in a form acceptable to the City Attorney. Recommended by the Director of Community and Economic Development.

CEQA: Not a “project” under Public Resources Code Section 21065 and CEQA Guidelines Sections 15061(b)(3) and 15378; no further environmental review is required under Public Resources Code Section 21166 and CEQA Guidelines Section 15162.

c. Considering – adoption of a Resolution approving the street name “Villa Vista Place” for the Villa De La Vista Subdivision (Tract 8989). Recommended by the Director of Community and Economic Development.

CEQA: Not a project under Public Resources Code Section 21065 and CEQA Guidelines Sections 15061(b)(3) and 15378; no further environmental required under Public Resources Code Section 21166 and CEQA Guidelines Section 15162.

d. Considering – approval of the purchase of protective ballistic vests in the amount of $113,176.56 from LPS Tactical & Personal Security Supply; and authorizing the FY2019-20 appropriation of $113,176.56. (Police Department Operating Budget) Recommended by the Chief of Police.

e. Considering – adoption of a Resolution authorizing the City Manager to enter into Delivery Robot Encroachment Permit Agreements. Recommended by the Director of Community and Economic Development.

CEQA: Not a project/exempt under Public Resources Code Section 21065, CEQA Guidelines Section 15061(b)(3), and/or 15035.
f. **Considering** – a second amendment to the Professional Services Agreement with SDI, Inc. for transitional management services of the Information Technology Department, increasing total compensation by $150,000 for a total not to exceed amount of $325,000 and extending the term of the agreement to December 31, 2019; and authorizing the City Manager to execute the amendment. (General Fund) Recommended by the Assistant City Manager.

g. **Considering** – approval of a Maintenance Services Agreement with Futures Explored, Inc. of Concord in the amount of $120,000 for custodial maintenance services; and authorizing the City Manager to execute the Agreement in a form acceptable to the City Attorney. (General Fund) Recommended by the Director of Public Works.

h. **Considering** – approval for the purchase of DELL computers as part of the annual desktop replacement program in an amount not to exceed $153,832.05. (IT Replacement Fund) Recommended by the Interim Director of Information Technology.

i. **Considering** – adoption of a Resolution approving the Analysis of Impediments to Fair Housing Choice; and authorizing the City Manager to submit the report to the Department of Housing and Urban Development (HUD). Recommended by the Director of Community and Economic Development.

CEQA: Not a project/exempt under CEQA Guidelines Section 15060(c)(3) or CEQA Guidelines Section 15378, 15061(b)(3), and/or 15300.2.

j. **Considering** – adoption of a Resolution approving the creation of the Senior Equipment Mechanic classification assigned to the Field and Operations (F&O) representation unit at pay grade 011. Recommended by the Director of Human Resources.

k. **Considering** – rejection of all bids submitted for the 2019 Residential Pavement Maintenance Project (Project #2496); and directing staff to re-advertise the project for bids. Recommended by the Director of Public Works.
I. **Considering** – approval of a Services Agreement in the amount of $79,552 to Landscape Structures, Inc. for the purchase and installation of Rick Seers Park Playground equipment; and authorizing the City Manager to execute the agreement in a form acceptable to the City Attorney. (Measure Q) Recommended by the Director of Public Works.

CEQA: Exempt pursuant to CEQA Guidelines Sections 15301 - Existing Facilities, 15302 - Replacement or Reconstruction, 15303 – New Construction or Conversion of Small Structures, and 15304, Minor Alterations to Land.

6. **CITY COUNCIL CONSIDERATION ITEM**

The public is entitled to address the City Council on items appearing on the agenda before or during the City Council’s consideration of that item. Each speaker will be limited to approximately three minutes.

a. **Receive** – presentation by Julie Morgan of Fehr & Peers on Vehicle Miles Traveled and Senate Bill No. 743 Implementation. **Report by Abhishek Parikh, Transportation Manager.**

CEQA: Not a "project" under Public Resources Code Section 21065 and exempt from CEQA under Guidelines Sections 15061(b)(3) and 15378.

b. **Considering** – cannabis regulation and revenue generally and direction to staff on: (1) permitting City Cannabis Licenses for adult-use cannabis manufacturing and distribution; and (2) maintaining or increasing the quantity of allowed City Cannabis Licenses for manufacturing, distribution, and testing laboratories. **Report by Coleman Frick, Associate Planner.**

CEQA: Not a "project" under Public Resources Code 21065, Guidelines Sections 15060(c), 15061(b)(3) and/or 15378.

7. **CORRESPONDENCE**

Correspondence received at the City Council meeting will be listed here on the Annotated Agenda.

a. Letter to State Senator Portantino in support of AB 1080

b. Letter to Assembly Member Gonzalez in opposition to SB 266

c. Letter to State Senator Wiener in opposition to SB 592

8. **REPORTS AND ANNOUNCEMENTS**

a. Closed Session Announcements

b. City Manager or Staff Reports
c. Council Reports

9. ADJOURNMENT

Next Meeting: Regular Meeting
Date: 8/27/2019 6:30 p.m.

ADA NOTICE AND HEARING IMPAIRED PROVISIONS - The Council Chamber is equipped with a T-Coil Hearing Loop. This system allows “T” coil reception of the audio proceedings. Please switch your hearing aid or cochlear device to the “T”, “T” Coil or telephone position. If you would like better audio reception, a loop receiver that picks up the audio loop is available from the City Clerk.

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3031, at least five days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

The following is a list of regular Council Committee meeting dates. Most meetings are held in the Garden Conference Room, 1950 Parkside Drive, Concord. NOTE: Meetings are subject to change or cancellation. For latest information and committee agendas please call 671-3158.

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<tr>
<th>Committee</th>
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<tr>
<td>Policy Development &amp; Internal Operations</td>
<td>Obringer/McGallian</td>
<td>2nd Wednesday at 5:30 p.m.</td>
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<td>Housing &amp; Economic Development</td>
<td>McGallian/Obringer</td>
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<tr>
<td>Infrastructure &amp; Franchise</td>
<td>Hoffmeister/Birsan</td>
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<td>Recreation, Cultural Affairs &amp; Comm. Svc.</td>
<td>Birsan/Aliano</td>
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<tr>
<td>Youth &amp; Education</td>
<td>Aliano/Hoffmeister</td>
<td>3rd Monday at 6:00 p.m.</td>
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Subject: Considering cannabis regulation and revenue generally and direction to staff on: (1) permitting City Cannabis Licenses for adult-use cannabis manufacturing and distribution; and (2) maintaining or increasing the quantity of allowed City Cannabis Licenses for manufacturing, distribution, and testing laboratories.

CEQA: Not a "project" under Public Resources Code 21065, Guidelines Sections 15060(c), 15061(b)(3) and/or 15378.

Report in Brief
The purpose of this meeting is for the City Council to provide direction to staff on:

1. Permitting adult-use, in addition to medicinal-only, cannabis manufacturing and distribution licenses.

2. Allowing more than two City Cannabis Licenses for cannabis manufacturing, distribution, and testing laboratories.

Any direction provided by Council for additional changes to the City’s Cannabis related regulations will be incorporated into the current staff work effort to draft regulations for Council consideration related to cannabis store-front, non-storefront, and micro-businesses. Staff is bringing these regulations before the Planning Commission and Council this Winter, with Council action expected before the end of the calendar year.
The subject line for this item has been written to be broad in order to allow the community and Council to discuss other aspects of cannabis regulation than have been outlined in this report, if they so desire.

**Recommended Action**
1. Direct staff to update regulations to:
   a. Permit City Cannabis Licenses for adult-use, in addition to medicinal-only, cannabis manufacturing and distribution uses.
   b. Remove the limitation on the quantity of City Cannabis Licenses for cannabis manufacturing, distribution, and testing laboratories.

**Background**
On October 9, 2015, Governor Brown approved a series of bills commonly referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"), effective January 1, 2016, which created a state licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medicinal cannabis.

On November 8, 2016, the Control, Regulate, & Tax Adult Use of Marijuana Act ("AUMA") was approved by California voters with the passage of Proposition 64. Effective November 9, 2016, the AUMA legalizes the use and cultivation for personal use of adult-use cannabis for persons 21 years or older. The AUMA also permits local jurisdictions to regulate and/or prohibit adult-use cannabis related to the cultivation, distribution and delivery, transportation, manufacturing, testing laboratories, dispensaries, and microbusiness facilities.

In December 2017, the Bureau of Cannabis Control ("BCC") adopted emergency cannabis regulations to clarify and make specific licensing and enforcement criteria for commercial cannabis businesses under the Medicinal and Adult Use Cannabis Regulation & Safety Act ("MAUCRSA"), which reconciled the differences between MCRSA and AUMA, and created a comprehensive state licensing and regulatory framework for the cultivation, manufacturing, testing laboratories, distribution, retail (storefront and non-storefront), and microbusinesses of both adult and medicinal use of cannabis. The BCC readopted these emergency regulations in June 2018, which remained in effect while the Bureau went through the formal rulemaking process to create non-emergency regulations.

The BCC, in developing its framework for regulating cannabis uses on a state-level, created a deadline of January 2, 2018 in which all local jurisdictions were required to adopt their own regulations for cannabis uses. Accordingly, in order to avoid the

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1 In order to be consistent with the terminology used by the state’s Bureau of Cannabis Control, “marijuana” is referred to as “cannabis”, “medical” is referred to as “medicinal”, and “recreational” is referred to as “adult-use” for purposes of this report.
situation where state-licensed uses could be grandfathered into the City, on November 14, 2017, the City Council adopted an ordinance, which amended the Municipal Code and Development Code to ban all cannabis uses, except for personal indoor cultivation and delivery of medicinal cannabis from licensed dispensaries located outside of Concord to qualified patients.

On January 16, 2019, the Office of Administrative Law officially approved new State regulations for cannabis businesses across the supply chain. The new regulations went into effect immediately, replacing the emergency regulations. Notable changes include the following:

- Removal of distinction between medicinal or adult-use in the State’s definition of commercial cannabis activity; and
- Legalizing statewide delivery of adult-use cannabis, regardless of jurisdiction, from licensed facilities.

History of Existing Concord Regulations

On September 27, 2005, the City Council adopted Ordinance No. 05-9, which amended the Concord Municipal Code by prohibiting the establishment of medicinal cannabis retailers, due to the inconsistencies between federal and State law and to protect public health, safety, and general welfare.

On April 9, 2013, the City Council adopted Ordinance No. 13-1, which amended the Concord Development Code by prohibiting outdoor cultivation of medicinal cannabis. The reasoning behind the prohibition included: 1) providing for the public health, safety, and welfare, 2) limiting odor caused by cannabis from impacting adjacent properties, and 3) preventing the attractive nuisance created by cannabis cultivation, which creates the risk of burglary, trespass, robbery, and armed robbery, requiring the expenditure of scarce police and public safety resources. The regulations limited medicinal cannabis cultivation to enclosed, occupied dwellings, where it is not visible from the public. The installation of grow lights, fans, ventilation devices, or other electrical and mechanical equipment was required to comply with all applicable building and fire code requirements and obtain any necessary permits.

On January 10, 2017, the City Council adopted Ordinance No. 16-9, which prohibited outdoor cannabis cultivation (medicinal and non-medicinal) and reinforced the existing policy. By doing so, Ordinance No. 16-9 prohibits the outdoor growing of both medicinal and non-medicinal cannabis. The Council also directed the Council Committee on Policy Development & Internal Operations (“PD&IO”) to comprehensively study potential regulations for medicinal and non-medicinal cannabis uses.

On July 25, 2017, the City Council adopted Ordinance No. 17-10, which amended the Concord Municipal Code to allow delivery of medicinal cannabis from licensed dispensaries located outside the City to qualified patients.
On November 14, 2017, the City Council adopted Ordinance No. 17-13, amending the Municipal Code and Development Code to ban all cannabis uses, except for personal indoor cultivation and delivery of medicinal cannabis from licensed dispensaries located outside of Concord to qualified patients. At that time, the City Council also instructed staff to bring back for consideration regulations for certain cannabis uses.

On June 12, 2018, the City Council adopted Ordinance No. 18-3 to amend the Municipal Code and Development Code to establish an overlay district, associated development standards, and a licensing framework for medicinal-only cannabis manufacturing and distribution, as well as adult-use and medicinal testing laboratories.

On April 2, 2019, the City Council and Planning Commission conducted a Joint Study Session and directed staff to pursue revisions to the existing cannabis regulations to potentially allow the following additional uses:

- Adult-use and medicinal non-storefront retail;
- Consideration of allowing adult-use and medicinal storefront retail and microbusinesses

The Council and Commission were also supportive of allowing a maximum of two City Cannabis Licenses for each new cannabis business type (storefront retail, non-storefront retail, and microbusinesses), maintaining a 600-foot buffer for sensitive uses, exploring additional sensitive uses, such as parks, and creating a competitive process for all new cannabis retail-related business. Additional information was also requested to be brought back on certain topics such as how to address cash transactions and to investigate the use of a Development Agreement. Staff is actively working on this past Council direction through community outreach and preparing draft regulations for Planning Commission and Council consideration this winter, with Council action anticipated in December 2019.

At the May 28, 2019 City Council meeting, Vice Mayor Tim McGallian requested that Council clarify the direction provided to staff at the April 2, 2019 Joint Study Session. Specifically, the Vice Mayor wanted to allow Council to clarify whether the direction to staff included removing the existing cap on the quantity of City Cannabis Licenses, and allowing for adult-use in addition to medicinal-only cannabis uses for manufacturing and distribution. There was Council consensus to bring these topics back for consideration in August. This is the purpose of the meeting on August 13th.

**Analysis**

**Inclusion of Adult-Use Cannabis Manufacturing & Distribution**

On June 12, 2018, the City Council adopted Ordinance No. 18-3 to amend the Municipal Code and Development Code to allow for up to two medicinal-only (excluding
adult-use) cannabis manufacturers and associated medicinal-only distributors within the Commercial Cannabis Overlay District. Staff recommends that the Council modify the existing regulations to allow adult-use cannabis manufacturing and distribution, based upon:

- Consistency with testing laboratories regulations. Currently, the City allows both adult-use and medicinal cannabis testing laboratories. Additionally, on April 2, 2019, the majority of the City Council directed staff to prepare regulations for adult-use and medicinal cannabis retail (storefront and non-storefront) and microbusinesses;
- Consistency with industry direction, as the State has begun removing the distinction between adult-use and medicinal-only cannabis;
- Ability to attract major cannabis industry players;
- Enhance economic development; and
- Potentially decrease the “underground” cannabis market.

**Quantity of City Cannabis Licenses**
The existing City regulations limit the number of City Cannabis Licenses as follows: two medicinal-only cannabis manufacturers, two medicinal-only cannabis distributors (must be associated with the manufacturing license), and two medicinal and adult-use cannabis testing laboratories. The City has issued City Cannabis Licenses to two medicinal-only cannabis manufacturers and distributors, which are located in the two northern-most portions of the Commercial Cannabis Overlay District (Attachment 1). One cannabis manufacturer is currently operating and the other is expected to open this summer. The City is also processing one City Cannabis License for a testing laboratory in the Cannabis Overlay District. The City Council may either affirm the existing limit, increase the limit, or remove the limitation on the quantity of City Cannabis Licenses for cannabis manufacturing, distribution, and testing laboratories.

Following are the pros and cons of increasing the quantity of available City Cannabis Licenses:

**Benefits of Increasing the Quantity of Licenses**
- Enhances economic development;
- Generates local jobs;
- Improves availability of cannabis and cannabis products;
- Increases the supply chain network;
- Potentially decreases the “underground” market; and

**Risks of Increasing the Quantity of Licenses**
- Impact on limited available industrial space (1.7% vacancy rate in July 2019);
• Potentially lead to increased commercial rent; and
• Potential increased work loads on limited staff resources for regulation, permitting, and enforcement, which could lead to less oversight.

Based upon the limited impacts of these cannabis businesses, the benefits outlined above, and the City’s fiscal situation, staff recommends eliminating the limitation on the quantity of City Cannabis Licenses for cannabis manufacturing, distribution, and testing laboratories.

Next Steps
If staff is directed to execute changes to the Municipal Code and Development Code, this effort will be combined with the City’s current effort to develop regulations for both adult-use and medicinal cannabis retail (storefront and non-storefront) and microbusinesses, which are scheduled to be considered by the Planning Commission in October 2019 and by the Council in December 2019.

Alternative
As an alternative to removing the existing limitation on the maximum number of City Cannabis Licenses for cannabis manufacturing, distribution, and testing laboratories at two for each type, the City Council could increase the maximum quantity of each license type from two to four, or more.

Environmental Determination
Pursuant to the California Environmental Quality Act of 1970, Public Resources Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, “CEQA”), the proposed study session does not constitute a "project" within the meaning of Public Resources Code Section 21065, and CEQA Guidelines Sections 15060(c), 15061(b)(3) and/or 15378 because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment and because it has no potential for either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment.

Public Contact
All appropriate public notices of this agenda item have been posted. Staff also e-notified interested parties, and have posted the notification on the City’s cannabis webpage: http://cityofconcord.org/cannabis. Staff also met with representatives from the cannabis industry, residents, and other local jurisdictions to obtain input.

Attachment
1. Commercial Cannabis Overlay District Map
Commercial Cannabis Overlay: Manufacturing, Testing Laboratories, & Distribution

Source: ESRI, 2017; City of Concord, 2017; PlaceWorks, 2018.