



**Brawley City Council &
Successor Agency to Brawley
Community Redevelopment Agency and
Joint Meeting with Planning Commission
Adjourned Meeting Agenda
Wednesday, January 27, 2016 @ 5:30 PM
Lions Center
225 A Street
Brawley, California 92227**

Donald L. Wharton, Mayor
Sam Couchman, Mayor Pro-Tempore
Helen M. Noriega, Council Member
George A. Nava, Council Member
Norma Kastner-Jauregui, Council Member
Darren Smith, Chairman
Robert Palacio, Vice-Chairman
Eugene Bumbera, Commissioner
Jay Goyal, Commissioner
Kevan Hutchinson, Commissioner
George A. Marquez, Commissioner
Ramon Castro, Commissioner

Alma Benavides, City Clerk
City Treasurer
William S. Smerdon, City Attorney
Rosanna Bayon Moore, City Manager/
Executive Director

CALL TO ORDER

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

1. APPROVAL OF AGENDA

2. PUBLIC APPEARANCES/COMMENTS (Not to exceed 4 minutes) *this is the time for the public to address the Council on any item not appearing on the agenda that is within the subject matter jurisdiction of the City Council. The Mayor will recognize you and when you come to the microphone, please state your name for the record. You are not allowed to make personal attacks on individuals or make comments which are slanderous or which may invade an individual's personal privacy. Please **direct your questions and comments to the City Council.***

3. CONSENT AGENDA Items are approved by one motion. Council Members or members of the public may request consent items be considered separately at a time determined by the Mayor.

a. Adopt Resolution No. 2016- : Resolution of the City Council of the City of Brawley, California Acting in Its Capacity as the Successor Agency for the Brawley Community Redevelopment Agency Approving the Recognized Obligation Payment Schedule for the Period of July 1, 2016 through June 30, 2017 and approving certain related actions. ***Pp 4-18***

b. Approve Agreement with County of Imperial for the Loan of a Fire Apparatus and the Response to Incidents Outside the City Limits for Fire Protection Services. ***Pp 19-25***

4. REGULAR BUSINESS

a. Discussion and Potential Action to Approve Letter of Support Request from Comité Civico del Valle for California Department of Public Health Project Entitled Use of Community-Based Mapping and Monitoring to Reduce Air Pollution Exposures. ***Pp 26-30***

5. ADJOURNMENT TO JOINT WORKSHOP WITH PLANNING COMMISSION

a. Discussion and Staff Direction re: the Development of Public Policy to Address Medical Marijuana in the City of Brawley. ***Pp 31-60***

6. CITY COUNCIL MEMBER REPORTS

7. CITY MANAGER'S REPORT

8. CITY ATTORNEY'S REPORT

9. CITY CLERK'S REPORT

ADJOURNMENT Next Regular Meeting, Tuesday, February 2, 2016 @ 6:00 PM, City Council Chambers, 383 Main Street, Brawley, California. Supporting Documents are available for public review in the Office of the City Clerk, 383 Main Street, Brawley, California 92227 - Monday through Friday during Regular Business Hours; Individuals who require special accommodations are requested to give 48 hours prior notice. Contact: Office of the City Clerk @ 760-351-3080.

Alma Benavides, City Clerk

SUCCESSOR AGENCY AGENDA REPORT
City of Brawley

Meeting Date: 01/27/2016

City Manager: 

PREPARED BY: Ruby D. Walla, Finance Director

PRESENTED BY: Ruby D. Walla, Finance Director

SUBJECT: Recognized Obligation Payment Schedule for the period of July 1, 2016 through June 30, 2017

CITY MANAGER RECOMMENDATION: That the City Council of the City of Brawley, acting in its capacity as the Successor Agency for the Brawley Community Redevelopment Agency, adopt a Resolution approving the Recognized Obligation Payment Schedule for the period of July 1, 2016 through June 30, 2016 and approving certain related actions.

DISCUSSION: Pursuant to Health and Safety Code § 34172 (a)(1), the Brawley Community Redevelopment Agency was dissolved on February 1, 2012. Consistent with the provisions of the Health and Safety Code, on January 17, 2012, the City Council elected to serve in the capacity of the Successor Agency for the Brawley Community Redevelopment Agency, (the "Successor Agency"). Per Health and Safety Code § 34177 (o)(1), commencing with the ROPS covering the period from July 1, 2016 to June 30, 2017 and thereafter, agencies shall submit an OB approved annual ROPS to Finance and the County Auditor-Controller by February 1, 2016 and each February 1 thereafter the Successor Agency is required to complete a Recognized Obligation Payment Schedule ("ROPS") in the manner provided for by the Department of Finance.

The ROPS is the basis for the Successor Agency's authority to make payments due for enforceable obligations. Subsequent to its approval by the Successor Agency, the ROPS must also be approved by the Oversight Board ("OS Board") to the Successor Agency and is reviewable by the County Auditor-Controller, the California Department of Finance and the California State Controller's Office.

Staff has prepared the ROPS for the period of July 1, 2016 through June 30, 2017, which consists of several spreadsheets that are appended to the attached Resolution as Exhibit "A". Pursuant to Health and Safety Code § 34177 (m), an Oversight Board-approved ROPS for the period of January through June 2016 must be submitted to the California Department of Finance and the County Auditor-Controller not later than February 1, 2016. Therefore, subsequent to the approval of the attached Resolution, the ROPS will be considered by the OS Board and once approved by the OS Board the ROPS will be forwarded to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance.

Approval of the attached Resolution will authorize the City Manager, or designee, to:

1. Post the ROPS for the period of July 1, 2016 through June 30, 2017 on the City's website;
2. Transmit the ROPS for the period of July 1, 2016 through June 30, 2017 to the OS Board for their review;

3. Subsequent to OS Board approval, transmit the ROPS for the period of July 1, 2016 through June 30, 2017 to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance; and
4. Make ministerial revisions to the ROPS, take such other actions and execute such other documents as are necessary to effectuate the intent of the Resolution, and to implement the ROPS for the period of July 1, 2016 through June 30, 2017 on behalf of the Successor Agency, including authorizing and causing such payments.

The attached Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines. The attached Resolution does not constitute a "project" for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines.

FISCAL IMPACT: Pursuant to Health and Safety Code § 34177, the Successor Agency is legally required to continue to make payments due for enforceable obligations. Approval of the ROPS will ensure that the Successor Agency has the authority to continue to pay its enforceable obligations. The recommended action does not, in itself, cause any new financial obligations.

ALTERNATIVES:

- Do not approve the Resolution.
- Provide staff with alternate direction.

Attachment: Proposed Resolution

RESOLUTION NO. 2016-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRAWLEY, ACTING IN ITS CAPACITY AS THE SUCCESSOR AGENCY FOR THE BRAWLEY COMMUNITY REDEVELOPMENT AGENCY, APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JULY 1, 2016 THROUGH JUNE 30, 2017 AND APPROVING CERTAIN RELATED ACTIONS.

WHEREAS, pursuant to Health and Safety Code § 34172 (a)(1), the Brawley Community Redevelopment Agency was dissolved on February 1, 2012; and

WHEREAS, consistent with the provisions of the Health and Safety Code, on January 17, 2012, the City Council elected to serve in the capacity of the Successor Agency for the Brawley Community Redevelopment Agency, (the "Successor Agency"); and

WHEREAS, per Health and Safety Code § 34177 (o)(1), commencing with the ROPS covering the period from July 1, 2016 to June 30, 2017 and thereafter, agencies shall submit an OB approved annual ROPS to Finance and the CAC by February 1, 2016 and each February 1 thereafter the Successor Agency is required to complete a Recognized Obligation Payment Schedule ("ROPS") in the manner provided for by the Department of Finance.

WHEREAS, the ROPS is the basis for the Successor Agency's authority to make payments due for enforceable obligations; and

WHEREAS, subsequent to its approval by the Successor Agency, the ROPS must also be approved by the Oversight Board ("OS Board") to the Successor Agency and is reviewable by the County Auditor-Controller, the California Department of Finance and the California State Controller's Office; and

WHEREAS, staff has prepared the ROPS for the period of July 1, 2016 through June 30, 2017, which consists of several spreadsheets that are appended to this Resolution as Exhibit "A"; and

WHEREAS, pursuant to Health and Safety Code § 34177 (m), an Oversight Board-approved ROPS for the period of July 1, 2016 through June 30, 2017 must be submitted to the California Department of Finance and the County Auditor-Controller not later than February 1, 2016; and

WHEREAS, subsequent to the approval of this Resolution, the ROPS will be considered by the OS Board and once approved by the OS Board the ROPS will be forwarded to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance; and

WHEREAS, this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 et seq., hereafter the "Guidelines"), and the City's environmental guidelines; and

WHEREAS, this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brawley, acting in its capacity as the Successor Agency for the Brawley Community Redevelopment Agency, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The Successor Agency's ROPS for the period of July 1, 2016 through June 30, 2017, which is attached hereto as Exhibit "A", is approved and adopted.
- Section 3.** The City Manager, or designee, is hereby authorized and directed to: i) post the ROPS for the period of July 1, 2016 through June 30, 2017 on the City's website; ii) transmit the ROPS for the period of July 1, 2016 through June 30, 2017 to the OS Board for their review; iii) subsequent to OS Board approval, transmit the ROPS for the period of July 1, 2016 through June 30, 2016 to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance; and iv) make ministerial revisions to the ROPS, take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution, and to implement the ROPS for the period of July 1, 2016 through June 30, 2017 on behalf of the Successor Agency, including authorizing and causing such payments.
- Section 4.** This Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines.
- Section 5.** This Resolution shall take effect upon the date of its adoption.

PASSED, APPROVED AND ADOPTED at an adjourned regular meeting of the Successor Agency to Brawley Community Redevelopment Agency held on January 27, 2016.

CITY OF BRAWLEY, CALIFORNIA

Donald L. Wharton, Chairman

ATTEST:

Alma Benavides, Secretary

EXHIBIT "A"

SUCCESSOR AGENCY FOR THE
BRAWLEY COMMUNITY REDEVELOPMENT AGENCY
RECOGNIZED OBLIGATION PAYMENT SCHEDULE
(JULY 1, 2016 THROUGH JUNE 30, 2017)

(See Attachment)

Brawley Recognized Obligation Payment Schedule (ROPS 16-17) - ROPS Detail
 July 1, 2016 through June 30, 2017
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	L		M		N		O		P	Q	R	S	T	U	V	W		
											ROPS Unit																	
Item #	Project Name/Other Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payment	Outstanding Debt	Original Issue	Outstanding Debt of Obligation	ROPS Unit																			
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Brawley Recognized Obligation Payment Schedule (ROPS 16-17) - ROPS Detail
 July 1, 2016 through June 30, 2017
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	L	M	N		O		P	Q	R	S	T	U	V	W			
													16-17A	16-17B	16-17A	16-17B											
Line #	Project Name/Deal Obligation	Obligation Type	Contract Agreement Execution Date	Contract Agreement Termination Date	Pages	Description/Project Size	Project Area	Total Contingency Paid or Collected	ROPS 16-17 Balance	ROPS 16-17 Total	Bond Proceeds	Reserve Balance	Other Funds	Non-ROPS	APR 17	APR 18	APR 19	16-17A Total	16-17B Total	Bond Proceeds	Reserve Balance	Other Funds	Non-ROPS	APR 17	APR 18	APR 19	
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Brawley Recognized Obligation Payment Schedule (ROPS 16-17) - ROPS Detail
 July 1, 2016 through June 30, 2017
 (Report Amounts in Whole Dollars)

Item #	Project Name/Job Description	Classification Type	Contract Agreement Execution Date	Contract Agreement Termination Date	Phase	Duration/Project Scope	Project Area	Total Outstanding Debt or Obligation	ROPS 16-17 Total	16-17A (Municipal)		16-17B (Non-Municipal)		W
										Build/Procure	Revolving/Refinance	Other Fields	Non-Admin	
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Brawley Recognized Obligation Payment Schedule (ROPS 16-17) - Report of Cash Balances
(Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I								
									Fund Sources							
									Bond Proceeds		Reserve Balance		Other	RPTTF		
Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS and DDR balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin											
Cash Balance Information by ROPS Period																
ROPS 15-16A Actuals (07/01/15 - 12/31/15)																
1	Beginning Available Cash Balance (Actual 07/01/15)			374,500		5,280										
2	Revenue/Income (Actual 12/31/15) RPTTF amounts should tie to the ROPS 15-16A distribution from the County Auditor-Controller during June 2015					220	384,172									
3	Expenditures for ROPS 15-16A Enforceable Obligations (Actual 12/31/15)					1809	384,172									
4	Retention of Available Cash Balance (Actual 12/31/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)															
5	ROPS 15-16A RPTTF Balances Remaining	No entry required														
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ -	\$ -	\$ -	\$ 374,500	\$ -	\$ 3,691	\$ -								
ROPS 15-16B Estimate (01/01/16 - 06/30/16)																
7	Beginning Available Cash Balance (Actual 01/01/16) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ -	\$ -	\$ -	\$ 374,500	\$ -	\$ 3,691	\$ -								
8	Revenue/Income (Estimate 06/30/16) RPTTF amounts should tie to the ROPS 15-16B distribution from the County Auditor-Controller during January 2016						235,331									
9	Expenditures for ROPS 15-16B Enforceable Obligations (Estimate 06/30/16)						235,331									
10	Retention of Available Cash Balance (Estimate 06/30/16) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)															
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ -	\$ -	\$ -	\$ 374,500	\$ -	\$ 3,691	\$ -								

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see CASH BALANCE TIPS SHEET.

COUNCIL AGENDA REPORT
City of Brawley

Meeting Date: January 27, 2016

City Manager: 

PREPARED BY: Chuck Peraza, Fire Chief

PRESENTED BY: Chuck Peraza, Fire Chief

SUBJECT: Agreement for the County of Imperial's Loan of a Fire Apparatus and the City of Brawley Fire Department's Response to Incidents Outside of City Limits

CITY MANAGER RECOMMENDATION: Approve agreement between the County of Imperial and the City of Brawley.

DISCUSSION: The County of Imperial and the City of Brawley have been parties to an agreement regarding service outside of City limits for a period of more than fifty years. The agreement provides for the Imperial County Fire Department to loan a fire apparatus and equipment for fire related services in the jurisdiction designated as the Brawley Area. In exchange, the City of Brawley furnishes the staffing for response to fire, rescue and medical incidents. The agreement between the City and the County was last executed in 2006.

The new agreement proposed for City Council action states that the Imperial County agrees to compensate the City of Brawley in the amount of \$149,284 on an annual basis, an increase of \$9,898 from the prior arrangement. The change in compensation adequately reflects Brawley Fire Department's responsibilities, level of service and fire personnel's professional qualifications and skills. Once the agreement is agreed upon, a retro-active payment will be processed as of July 2015. The new agreement will self-renew annually from fiscal year to fiscal year, unless either party elects to terminate or if there are any changes within the contract.

FISCAL IMPACT: Fire Department revenues in the amount of \$149,284

ATTACHMENTS: Proposed Agreement between the County of Imperial and the City of Brawley

1 AGREEMENT

2
3 THIS AGREEMENT is made and entered into this ____ day of _____, 2016, by and between
4 the COUNTY OF IMPERIAL, a political subdivision of the State of California, hereinafter called
5 "COUNTY," and the CITY OF BRAWLEY, hereinafter called "AGENCY."

6 WITNESSETH:

7 **WHEREAS**, COUNTY is the owner of certain fire-fighting apparatus and equipment presently in
8 the care and custody of AGENCY; and

9 **WHEREAS**, COUNTY and AGENCY have previously executed agreements whereby, in return
10 for the payment of sums and the loan of certain fire-fighting apparatus and equipment by COUNTY,
11 AGENCY has performed fire protection services for and on behalf of COUNTY; and

12 **WHEREAS**, the parties wish to continue said fire protection services under this agreement; the
13 parties hereto agree as follows:

14 1. EQUIPMENT.

15 COUNTY loans to AGENCY the use of the fire protection equipment listed in Exhibit "A" attached
16 hereto and by this reference made a part hereof, for the purposes and upon the conditions, described herein.

17 2. FIRE PROTECTION SERVICES.

18 AGENCY shall deliver and operate the COUNTY fire-fighting apparatus and equipment provided
19 under this agreement in response to fire calls in the service area outlined in Exhibit "B," commonly
20 described as the Brawley Area and shall, upon request of the COUNTY Fire Department, respond to calls in
21 other areas of the County of Imperial as necessary. In addition, AGENCY may respond to "emergency
22 medical service" calls in the service area outlined in Exhibit "B." All requests for Mutual Aid, involving
23 COUNTY equipment and/or this contract, shall be approved by the COUNTY Fire Department. In
24 performance of these services, AGENCY shall comply with all applicable statutes, regulations and
25 professional standards.

26 3. AGENCY PERSONNEL.

27 AGENCY shall comply with the provisions of Part 4, Division 12 of the Health and Safety Code,
28 commencing with Section 14825. AGENCY will at all times provide trained California Class C (with

1 proper endorsements) licensed drivers to operate fire-fighting apparatus and shall provide an experienced
2 crew of not less than two (2) persons, when responding to a call for assistance under this contract.
3 AGENCY shall further participate in the California Department of Motor Vehicles Pull Program to ensure
4 that its personnel are appropriately licensed.

5 4. TERM.

6 The term of this agreement shall be deemed to have commenced on July 1, 2015 and shall continue
7 in effect until June 30, 2016, and shall be deemed self-renewed annually from fiscal year to fiscal year,
8 unless either party elects to terminate pursuant to paragraph 20 herein.

9 5. SUPERSEDURE.

10 This agreement supersedes any and all agreements for fire protection services earlier entered into by
11 the parties.

12 6. CONSIDERATION.

13 For and in consideration of the services to be rendered by AGENCY pursuant hereto, COUNTY
14 agrees to pay, and AGENCY agrees to accept as full consideration therefore as follows:

15 6.1. A not to exceed annual sum of one hundred forty nine thousand two hundred eighty
16 four dollars (\$149,284.00) payable by COUNTY in arrears in equal monthly installments.

17 6.2. Except as provided for in paragraph 6.1, COUNTY shall not be responsible to pay
18 AGENCY any other payments, compensation, expenses, fees, or other remuneration.

19 7. ON-SITE COMMAND.

20 When AGENCY is responding to a fire with COUNTY equipment in the unincorporated area of the
21 County of Imperial, whether or not within the AGENCY area, and the COUNTY Fire Chief and/or his duly
22 appointed officers are present to assume a unified command of the placement and coordination of
23 COUNTY's equipment, said AGENCY personnel shall place themselves, and the equipment in their
24 possession, under the overall command of the COUNTY Fire Chief and/or his duly appointed officers and
25 shall remain at the scene until released by the COUNTY Fire Chief or his representative in command. An
26 operational communications plan shall be established by the Incident Commander to ensure effective
27 communications for all units on scene. Nothing in this section shall preclude the AGENCY Fire Chief or
28 his designee from recalling AGENCY personnel, if needed to respond to calls for service within the City.

1 8. RESPONSES OUTSIDE COUNTY.

2 At no time shall AGENCY send the COUNTY fire truck to answer a call outside the boundaries of
3 the County of Imperial, without first obtaining permission from the COUNTY Fire Chief or his duly
4 appointed officer.

5 9. LEVEL OF SERVICES.

6 9.1 COUNTY reserves the right to set the level of service expected of AGENCY, as set
7 forth in Exhibit "C" attached hereto, and by this reference made a part hereof.

8 9.2 COUNTY and AGENCY agree that AGENCY may provide first responder
9 emergency medical services and that AGENCY may bill for these services when allowable at
10 AGENCY's established billing rates and procedures.

11 9.3 COUNTY may, from time to time, conduct inspections to determine whether the
12 required level of service is being maintained by AGENCY.

13 9.4 AGENCY shall provide a training program for its personnel sufficient to conform to
14 the minimum training standards set forth in Exhibit "D" attached hereto, and by this reference made
15 a part hereof, and other mandated training as required by the State Fire Marshall, and state and
16 federal regulations.

17 10. INTRA-AGENCY USE OF EQUIPMENT.

18 AGENCY may use the COUNTY fire-fighting apparatus and equipment in its custody for
19 "standby" or "cover-in" when AGENCY's own equipment is otherwise in use and for the combating of
20 fires or other local emergencies of any type when used in conjunction with AGENCY's own equipment.
21 Notwithstanding this provision, AGENCY shall be responsible for any and all costs of operations and
22 maintenance incurred in the course of such use and that AGENCY shall continue to perform all other
23 provisions of this contract.

24 11. REPORTS.

25 AGENCY shall designate a Fire Chief who shall have the responsibility of insuring compliance
26 with all provisions of this agreement. The AGENCY Fire Chief shall report to the COUNTY's Fire Chief
27 or to the COUNTY's Executive Officer or their representatives, the loss or damage of any COUNTY fire
28 truck or other equipment in the possession of AGENCY. If any such truck or equipment is involved in an

1 accident where death, personal injury or property damage has resulted, the AGENCY Fire Chief shall, in
2 addition to any required police reports, report same to the COUNTY Fire Department as soon as possible
3 and preferably at the time of the accident, but in no event later than twenty-four (24) hours following the
4 accident. The AGENCY Fire Chief shall within ten (10) days following the accident report, in writing, to
5 the COUNTY Fire Chief the circumstances of the accident and resulting loss or damage. The AGENCY
6 Fire Chief shall submit to the COUNTY Fire Department monthly incident reports which outline incidents
7 for which the COUNTY engine was utilized and monthly training reports of the AGENCY's personnel.
8 The AGENCY shall also submit personnel rosters of firefighters and certified driver/operators monthly to
9 the COUNTY Fire Department.

10 12. PERMITTED USES OF COUNTY EQUIPMENT.

11 12.1. AGENCY shall use COUNTY provided equipment exclusively for firefighting or
12 other legitimate Emergency Services purposes only. AGENCY shall not use the COUNTY fire
13 truck or its equipment for the purpose of washing fire hoses, flushing sewer lines, washing
14 buildings, streets or alleys or other non-firefighting related activities.

15 12.2. COUNTY agrees that AGENCY may use COUNTY equipment for the training of
16 its personnel as required above, when AGENCY equipment is not available for this purpose.
17 However, it is agreed that AGENCY shall use its own equipment for training purposes whenever
18 possible.

19 13. REPLACEMENT OF EQUIPMENT.

20 AGENCY shall be responsible for the care and custody of all the COUNTY equipment provided to
21 it and shall return same to the COUNTY Fire Chief at the termination of this agreement in as good a
22 condition as when provided, reasonable wear and tear excepted.

23 14. MAINTENANCE.

24 AGENCY shall maintain COUNTY fire-fighting apparatus and equipment in its possession
25 pursuant hereto, and shall keep the same in good, serviceable condition, and shall properly house and
26 shelter the same during the term thereof. In addition, AGENCY shall apply to said apparatus and
27 equipment such tests and inspections as may, from time to time, be prescribed by the COUNTY Fire Chief.
28 The results of said tests and inspections shall be reported to COUNTY in the manner and upon forms

1 prescribed by the COUNTY Fire Chief. In addition, AGENCY shall submit to COUNTY on or before the
2 fifteenth (15th) day of each month, a report covering the operation by AGENCY of the apparatus and
3 equipment of COUNTY pursuant to this agreement. Said report shall be made upon forms prescribed by
4 the COUNTY Fire Chief and the AGENCY Fire Chief.

5 15. REPAIRS.

6 AGENCY shall make or cause to be made, all necessary minor repairs or routine maintenance to
7 COUNTY equipment supplied hereunder, by qualified personnel. AGENCY shall provide the labor costs
8 of all such minor repairs. Minor repair are defined as those where the costs of the parts do not exceed one
9 hundred dollars (\$100) and the work can be performed by AGENCY's Fire Department personnel or
10 AGENCY mechanic(s). COUNTY shall perform all other repairs at no charge to AGENCY.

11 16. ANNUAL INVENTORY.

12 AGENCY shall permit COUNTY to inventory all COUNTY equipment in AGENCY's possession
13 on or before July 10 of each year of this agreement.

14 17. FUEL.

15 COUNTY agrees to provide fuel for the operation of all COUNTY equipment provided herein for
16 the performance of the provisions of this agreement.

17 18. INSURANCE.

18 AGENCY shall maintain public liability and property damage insurance sufficient to cover
19 liabilities that may arise out of the performance of this agreement. AGENCY shall also provide workers'
20 compensation insurance covering its members. Certificates of insurance for each required policy shall be
21 provided to the Clerk of the Board of Supervisors and shall verify that insurance coverage may not be
22 canceled without thirty (30) days notice to AGENCY and to COUNTY.

23 19. HOLD HARMLESS.

24 19.1 AGENCY agrees to indemnify and defend COUNTY, its officers, employees,
25 agents, agencies and instrumentalities, against all suits, actions, claims, costs or demands resulting
26 from death, personal injury or property damage arising or resulting from and all operations
27 performed in the Agreement provided such injuries or death to persons or damage to property is due
28 to the sole negligence of AGENCY, its employees or agents.

1 19.2 COUNTY agrees to indemnify and defend AGENCY, its officers, employees,
2 agents, agencies and instrumentalities, against all suits, actions, claims, costs or demands resulting
3 from death, personal injury or property damage arising or resulting from and all operations
4 performed in the Agreement provided such injuries or death to persons or damage to property is due
5 to the sole negligence of COUNTY, its employees or agents.

6 20. TERMINATION.

7 Should either party fail or refuse to comply with any term or condition of this agreement, the other
8 party may, upon serving fifteen (15) days notice specifying the nature of the noncompliance, terminate the
9 agreement if corrective action is not taken within said period. If AGENCY allow its insurance to lapse, this
10 agreement shall be deemed immediately suspended and COUNTY may immediately terminate the
11 agreement. Either party may terminate this agreement without cause by giving sixty (60) days written
12 notice to the other party.

13 IN WITNESS WHEREOF the parties hereto have caused this document to be executed the day and
14 year first above written.

15 COUNTY OF IMPERIAL:

CITY OF BRAWLEY

17 By: _____
18 RYANE E. KELLEY, Chairman
19 Board of Supervisors

By: _____
DONALD L. WHARTON, Mayor

20 ATTEST:

ATTEST:

21
22 By: _____
23 BLANCA ACOSTA, Clerk of the
 Board of Supervisors

By: _____
ALMA BENAVIDES, City Clerk

24 APPROVED AS TO FORM:

APPROVED AS TO FORM:

25 KATHERINE TURNER
26 COUNTY COUNSEL

27 By: _____
28 Eric Havens
 Deputy County Counsel

By: _____
William Smerdon
City Attorney

Print on Letterhead

Date

Paul B. English, PhD MPH
Senior Branch Advisor
Environmental Health Investigations Branch
California Department of Public Health
850 Marina Bay Parkway
Richmond, CA 94804

Dear Dr. English:

This letter is to support your application for a competitive revision to the National Institutes of Health for your project, "Use of Community-Based Mapping and Monitoring to Reduce Air Pollution Exposures." This project is currently working with the local community to install 40 web-enabled particulate matter monitors throughout the Imperial Valley which will display air pollution levels in real-time on the internet.

I understand your current request is for additional funding to conduct trainings and outreach among high school students to build their capacity to understand air quality and health, to use the air network at their high school, and to outreach and educate others. In addition, your request is to train other impacted communities on how to establish similar air networks. <<Insert mission of organization, expertise in this area (e.g. established IVAN), and/or specifically what they would be interested in (e.g. youth leadership, training)>>

Particulate matter pollution is a serious public health problem in Imperial County. Providing better information on air quality will empower the community to develop solutions which will improve health in this area.

I enthusiastically support your proposal. Please let me know how I can further support your efforts in this matter.

Sincerely,

An Impacted Community

Imperial County, California, is a primarily Latino county with some of the highest rates of unemployment and poverty in the nation. Along with numerous environmental concerns cited by residents, including water contamination and pesticide use, air pollution is a major concern. For decades, the county has exceeded the state standard for PM₁₀ for periods lasting over six months, and the county consistently has one of the highest asthma hospitalization and emergency room visit rates in the state for school-aged children.

Limited Data for Action

With a limited number of air pollution monitors in a county that spans over 4,000 square miles, the county's air quality monitoring network has limited ability to measure air pollution hotspots of greatest community concern. While Imperial County has a historically active and committed population, this lack of information is an impediment to assessing and informing policies and practices to reduce exposures and improve health.

New Air Monitoring Project in Imperial County

In partnership with Comité Cívico del Valle (CCV), a local community organization and long-time collaborator, along with the University of Washington and other partners, the California Environmental Health Tracking Program (CEHTP) received a grant from the National Institutes of Health to conduct a 4-year community-based air monitoring research project in Imperial County, CA.

Community-Driven Research

The project will engage members from impacted communities to design a Community Air Monitoring Network and to develop strategies to use data from the Network for public health action. A Community Steering Committee will play a key role in project design, implementation, and decision-making. Additional community members will engage in data collection, placing air monitors, results interpretation, and dissemination.

Neighborhood Mapping

Participants from 11 neighborhoods of concern will define and map local hazards and assets to inform the placement of air monitors for the Network, highlight factors contributing to community vulnerability and resilience, and delineate cumulative exposures.

Community-Operated Air Quality Monitoring Network

The Network will consist of 40 low-cost, portable air monitors placed throughout Imperial County. The project will use an innovative approach to determine the locations of the monitors, incorporating community-generated data and community input, along with requirements for scientific rigor. Community members will set up and maintain the monitors, which will remain in the community after the project.



Reporting Real-Time Air Monitoring Data

The Network will relay data to the internet for immediate information on air pollution levels. The data will be publicly displayed on IVAN Online (Identifying Violations Affecting Neighborhoods, www.ivan-imperial.org), a community-based environmental reporting website. Data will also be available on the CEHTP web portal (www.cehtp.org).

Identifying Hot Spots

Project researchers will combine data from the Network with data from existing state and federal air monitors to create highly detailed maps of air pollution by location and time. Using advanced analytical methods (such as state-of-the-art dispersion and land use regression modeling), the project will result in the most accurate and detailed picture of air quality (PM₁₀ and PM_{2.5}) throughout the county, enabling identification of hot spots near vulnerable populations.

Translating Research Results into Action

Community participants, the steering committee, and project staff will examine mapping activity results and data from the Network to discuss key findings and issues of concern. Together, the group will develop and implement a public health action plan for reducing exposures and improving health. The group will also discuss strategies for sustainability after the project's completion.

Community Steering Committee Members

Ray Askins	Community Advocate	Rosie Nava	Family Tree House
Alejandro Bejarano	Community Advocate	Anita Nicklen	Community Advocate
Joe Beltran	Community Advocate	Frances Nicklen	Community Advocate
Astrid Calderas	Community Advocate	Vincent Orfiano	Community Advocate
Edie Harmon	Community Advocate	Elizabeth Swerdfeger	Community Advocate
John Hernandez	Our Roots Multi-Cultural Center	Carolina Villa	Seeley Citizens United
Leticia Ibarra	Clínicas de Salud del Pueblo, Inc.	Elizabeth Villa	Community Advocate
Arturo Medina	Community Advocate	Juan Zarate	Community Advocate

Project Partners

California Environmental Health Tracking Program • Comité Cívico del Valle • University of Washington
George Washington University • University of California Los Angeles • Z-Data Solutions

For More Information

To learn more about this project, please contact CEHTP at tracking@cdph.ca.gov or (510) 620-3038, or Comité Cívico del Valle at comitecivico@sbcglobal.net or (760) 351-8761.

The California Environmental Health Tracking Program is a collaboration of the Public Health Institute and the California Department of Public Health. This project is funded by the NIH National Institute of Environmental Health Sciences, grant number 5R01ES022722-02.



We would like to invite you to host one of the air monitors that will form the Imperial County Community Air Monitoring Network. Please review this factsheet for more details about becoming an air monitor host. For more information, please contact Comité Cívico de Valle at comitecivico@sbcglobal.net or (760) 351-8761.



What are you monitoring?

We are monitoring particulate matter (PM) pollution, which consists of solid and liquid particles in the air. Particles can consist of materials such as dust, dirt, soot, smoke, salt, acids, and metals. PM can negatively impact health and is linked with asthma, cancer, heart disease, poor birth outcomes, and premature death.

Why was my property selected?

As part of this project, 40 individuals representing 11 cities in Imperial County participated in a two-day meeting to identify and map possible air monitoring sites within their communities. Participants identified and ranked sites where they felt having an air monitor would best serve the community.

What are you asking me to do?

The time commitment and responsibilities for air monitor hosts are minimal. We are asking for your permission to install and operate an air monitor on your property, which will require a trivial amount of electricity and internet access from you. Also, we request permission to check on the monitor about four times a year, which we will schedule with you in advance. Project staff will be entirely responsible for the installation and maintenance of the air monitor.

Where will the air monitor be installed?

In general, the monitor can be installed in any safe, outdoor location as long as it is about 10 feet off the ground and has access to an electrical outlet and wireless internet. In other studies, monitors have been installed on roof tops, on poles, and under the eaves on the sides of buildings. Project staff can work with you to identify potential locations that meet both your needs and monitor siting criteria.

How long will installation take?

Depending on the final location of the monitor, we expect the installation itself to take 2-4 hours. We can provide a better assessment once the location has been selected.

How big are the air monitors?

The monitors are small and lightweight (about 7 inches tall and less than 2 pounds). They will be installed with a protective casing (about 14 inches tall and 12 inches wide, weighing less than 13 pounds). For some installations, monitors may be placed on a tripod.



project air monitor and protective casing

How long will the air monitors be in place?

The plan is for the community air monitoring network to serve as a community resource and continue to operate beyond the official project end date of October 2017. If you have any concerns about hosting an air monitor at any point, please let us know.

Will I have access to the data collected by the air monitor?

Yes. The information from your monitor will be publicly available via a user-friendly website once all of the monitors for the network have been installed and tested, likely in early 2016. In the meantime, we will mail you a monthly report with a preliminary summary of the air quality data collected by your monitor. This can give you an idea of the type of information that you will be able to access once the air monitoring network is fully operational.

How is this data different from what is currently available?

Air quality data is currently available for Imperial County through such websites as imperialvalleyair.org and airnow.gov. These data are derived from four regulatory monitors located in the county. Because the data are specifically collected for regulatory purposes, they are not able to provide much information about air quality at the neighborhood-level. This project aims to supplement this existing information by providing neighborhood-level PM data.

How can the data from the air monitors be used?

Data generated by the network will include real-time air quality measurements for each air monitor, maps showing air pollution hotspots throughout the county, air quality trends over time, and other summary data. This information can be used for public health action, planning, and policy. For example, the data could:

- inform asthma management at the individual and community level
- facilitate air pollution research
- support outreach, education, and advocacy efforts
- guide programs and policies to reduce air pollution and improve health

The ultimate goal of the project is for the network to provide information that will lead to the improved health of residents throughout the county.

The California Environmental Health Tracking Program is a program of the Public Health Institute. This project is funded by the NIH National Institute of Environmental Health Sciences, grant number 5R01ES022722-02.

COUNCIL AGENDA REPORT
City of Brawley

Meeting Date: January 27, 2016

City Manager: REM

PREPARED BY: Gordon R. Gaste, AICP CEP, Planning Director

PRESENTED BY: Rosanna Bayon Moore, City Manager
Gordon R. Gaste, AICP CEP, Planning Director
Michael Crankshaw, Chief of Police
William Smerdon, City Attorney

SUBJECT: Discussion and Direction Regarding City Options Pertaining to Medical Marijuana

STAFF RECOMMENDATION: Provide staff direction regarding medical marijuana dispensaries, cultivation, mobile delivery services and research centers within the City of Brawley.

BACKGROUND: The purpose of the Joint Workshop of the Planning Commission and City Council is for City staff to present research on medical marijuana as it pertains to local land use control. The workshop also provides a forum for the public and various stakeholders to address the City Council and the Planning Commission on the topic. Based on staff direction provided at the Joint Workshop, a draft ordinance will be prepared. The draft ordinance will be subjected to the normal public notice and hearing process.

City Staff requires Planning Commission and City Council guidance to define and narrow the desired approach. The intent of creating a marijuana dispensary and cultivation ordinance is to retain local control to the extent possible under recent legislation adopted by the State Legislature. If a California City does not currently have a dispensary and cultivation ordinance and fails to adopt such ordinance by March 1, 2016, the State of California will be the responsible organization for permit processing.

Both federal and California laws generally prohibit the use, possession, cultivation, transportation, and furnishing of marijuana. The federal Controlled Substances Act (21 U.S.C. § 801 *et seq.*) prohibits, except for certain research purposes, the possession, distribution, and manufacture of marijuana. California law is similar (Health and Safety Code § 11357 *et seq.*). However, California statutes such as the Compassionate Use Act of 1996 (Health and Safety Code § 11362.5 added by Proposition 15), and the Medical Marijuana Program (Health and Safety Code § 11362.7 *et seq.*) have eliminated State law obstacles for qualified patients to obtain and use marijuana for legitimate medical purposes. On the federal level, there has also been a recent relaxation of federal law enforcement as it pertains to medical marijuana.

Notwithstanding the ability under California law for medical marijuana dispensaries to operate, the law is clear that cities have the ability to independently ban medical marijuana dispensaries within their City limits (*City of Riverside v. Inland Empire Patient Health and Wellness Center* (2013) 51 Cal. 4th 729). Indeed, the City of Brawley currently does not allow medical marijuana dispensaries within the City.

(Brawley Municipal Code, Chapter 19G and recently passed moratorium). It has been the policy of the City to enforce the ban on dispensaries and cultivation within the City.

In contrast, other cities within California have established local laws that allow medical marijuana dispensaries within their city limits. The following are examples of how other cities have addressed the medical marijuana issue. The City Council has broad discretion to address this topic and the content below is provided to facilitate public policy dialogue by illustrating a spectrum of alternatives.

SAMPLE APPROACHES

1. City of Santa Ana Approach

The Santa Ana approach only allows for the operation of medical marijuana dispensaries in the City and does not allow the cultivation, planting or harvesting of marijuana. The implementation of the Santa Ana approach is separated into a two-step process. The first step requires potential operators of medical marijuana dispensaries to submit a registration application within a set timeframe. This initial registration application requires applicants to submit: (i) general information about the medical marijuana collective (name, type of business, location, point of contact, etc.); (ii) a notarized affidavit from the property owner acknowledging that the location will be used as a medical marijuana collective; (iii) longitude and latitude coordinates (Santa Ana approach requires 500-foot separation between collective locations, prohibits collectives within 1,000 feet of any school, park, or residential zone, and only allows collectives in certain parts of the City); and (iv) a non-refundable processing fee.

At the end of the set timeframe for the initial registration application, the Santa Ana approach calls for a lottery where locations are selected from the pool of collectives that have successfully completed the initial registration application until all of the allowable areas of the City are covered. Winners of this lottery are then qualified to begin the second step of the process - the regulatory safety permit process.

The regulatory safety permit process requires the lottery winners to submit, among other things: (i) extensive information to the City for background checks on the dispensary owners and employees; (ii) specific site plans to ensure that operating standards are met; and (iii) a processing fee. Should the applicant receive a regulatory safety permit, the collective must apply for a Certificate of Occupancy and obtain a business license prior to beginning operations. The regulatory safety permit is valid for one (1) year, requiring permit renewal annually.

The revenue generating portion of the Santa Ana approach provides for a maximum 10% tax of the gross receipts generated by each collective location with a minimum payment of \$2,000 per location. The initial rate is set at 5% of the gross receipts and allows the City Council the option to change the rate provided that it is not in excess of 10% of gross receipts.

2. City of Needles Approach

The Needles approach is not nearly as extensive as the Santa Ana approach (*i.e.*, no lottery, extensive application procedure, or background checks). The Needles approach requires medical marijuana businesses to comply with all regular licenses, permits, taxes, fees and charges applicable to businesses in the City as well as obtain a business tax certificate specific to medical marijuana businesses. The Needles approach allows for not only medical marijuana dispensaries, but also allows any business that plants, cultivates, harvests, transports, manufactures, compounds, converts, processes, prepares, stores, packages, and sells ancillary products. Similar to the Santa Ana revenue generation, the Needles rate is

set to a maximum of 10% of gross receipts and allows the City Council to change the rate so long as it does not exceed the maximum rate.

Recently, Needles passed an ordinance that bans new medical marijuana dispensaries from commencing operations in the City but granted immunity from this prohibition for existing medical marijuana dispensaries that complied with certain requirements (*i.e.*, operating standards, location, insurance, etc.)

3. City of Palm Springs Approach

The City of Palm Springs approach allows for a maximum of four medical marijuana dispensaries within the City and prohibits any cultivating, harvesting or other ancillary activities. Similar to the Santa Ana approach, the application process is rather extensive. Dispensaries hoping for one of the four permits must submit, among other things: (i) information regarding their lawful presence and good moral character; (ii) financial management and responsibilities for the dispensary; (iii) a site plan; (iv) a lease; (v) evidence that applicant is organized as a bona fide non-profit; (vi) an estimate of the size of the group or primary caregiver and/or qualified patients who will be served by the dispensary; and (vii) pay a permitting fee. Once obtained, a permit is valid for one year and must be renewed annually.

The Palm Springs approach also calls for a land or leasehold interest covenant that among other things requires the permit holder to indemnify the City, carry insurance with the City as an additional insured, and agree to defend the City at the permit holder's sole expense for any action related to the issuance of the permit. The Palm Springs approach is unique in that it gives the City Council discretion to choose the applicant(s) it deems most worthy of a permit. If there is more than one qualified applicant for each of the four permits, the City Manager is required to submit a report to the City Council for each qualified applicant for review and consideration. The City Council will rank the applicants based on the goals and requirements of the application process and award the permits to the most qualified applicant. This process would repeat itself every time a permit is not renewed and there is more than one qualified applicant.

The revenue generating portion of the Palm Springs approach calls for a 15% tax on the gross receipts of each dispensary.

4. City of Rancho Cordova Approach

The Rancho Cordova approach allows for the dispensing and cultivation of marijuana in the City and prohibits any dispensary from operating within the City. In other words, the growing and harvesting of marijuana is allowed in the City but not retail sales to the public. This approach requires cultivators to apply for a cultivation permit prior to being allowed to cultivate marijuana in the City.

The permit application requires the applicant to submit the following: (i) a notarized signature from the property owner consenting to marijuana cultivation; (ii) the name of each person leasing or occupying the premises; (iii) the name of each qualified patient or primary caregiver who participates in the medical marijuana cultivation; (iv) the physical address; (v) a signed consent form authorizing city staff to conduct an inspection upon twenty-four (24) hours' notice; and (vi) payment of permit processing fee. This approach only allows for the indoor cultivation of marijuana and limits the locations and amount allowed to be cultivated.

5. City of Colfax Approach

The City of Colfax views medical marijuana as a disincentive for families and business investment. Colfax sees itself as at a crossroads with a slowly recovering economy, declining enrollment in local schools and businesses leaving town. A significant number of current Colfax residents have visited City Hall to express opposition and dismay with the proposed marijuana dispensary. In contrast, only a few members of the public stepped forward to speak in favor of a dispensary, and two of the parties wanted to open a dispensary themselves.

A visible segment of the City's population struggles with drug abuse problems with hard drugs, which do not equate with marijuana use. Public safety professionals in the City of Colfax predict that marijuana dispensaries will cause additional drug problems and are concerned with permitting a Federally designated illegal substance in primarily a cash business.

As Colfax describes their outlook, young families are the future of the City. Staff's experience has been that most parents would choose to raise their families in a neighboring town without a dispensary over locating in Colfax. A prospective owner investing in relocating or starting a business would choose a town without a divisive and potentially illegal dispensary and the associated controversy.

Colfax staff and community organizations are working diligently to encourage businesses to locate or stay in town. The issue of drug abuse and availability is one of the most frequently mentioned disadvantages of locating in Colfax.

CITY OF BRAWLEY'S CURRENT POSITION ON MEDICAL MARIJUANA

Currently, the City prohibits the opening or operation of a medical marijuana dispensary in the City. (Brawley Municipal Code 19G.) The City Council recently passed an emergency ordinance imposing a moratorium on medical marijuana cultivation and processing, prohibiting medical marijuana dispensaries. The moratorium is only temporary and Chapter 19G is not a land use ordinance so will not be effective under the new state legislation.

LEGAL ISSUES

The topic before the Planning Commission and City Council is a local land use and legal issue. State and Federal laws are rapidly evolving and more uniform rules for marijuana dispensaries may be forthcoming. It remains to be seen what, if anything, Congress may do in light of the legalization of marijuana in some of the Western states. The current federal administration has taken a "hands off" approach but there will be a new administration in a year and it is impossible to know if that "hands off" attitude will continue.

The legal issues related to California medical marijuana dispensaries are complex and unsettled, especially with regard to the conflict between Federal and State law. Some of the current legal issues include:

1. Marijuana is illegal under Federal law. As a Schedule 1 controlled substance, the Federal government has determined that it has "no currently accepted medical use in treatment in the United States" and there is no "medical necessity" exception.
2. The Federal government can criminally or civilly prosecute anyone who possesses, distributes or manufactures marijuana, even if it is done through a properly licensed California medical

marijuana dispensary. This was most recently illustrated by the case of Aaron Sandusky whose conviction and ten year prison sentence for continuing to run a medical marijuana dispensary legally established in California were upheld by the U.S. 9th Circuit Court of Appeals on March 17, 2014.

3. The U.S. Attorney's Office and several district attorneys throughout the country have opined that state and local officials who facilitate the distribution of marijuana through, for example, the issuance of business licenses can be subject to Federal prosecution. Currently the likelihood of such prosecution is slim and to the City Attorney's knowledge, no such cases have been filed. But, with a new federal administration, the risk in the future cannot be calculated. Compliance with State and local laws does not provide a defense to federal prosecution.
4. Marijuana is generally still illegal in California except under limited circumstances. The "Compassionate Use Act" (CUA) and the "Medical Marijuana Program" ("MMP") did not legalize marijuana in California except under those limited circumstances.
5. The City of Brawley has the right under California law to utilize its police power to adopt land use ordinances to allow, restrict, limit, or entirely exclude medical marijuana facilities.
6. The City's ability to collect revenue from a medical marijuana facility is quite limited unless the City's voters approve a tax measure or unless some form of development agreement or similar contract can be negotiated and withstand legal scrutiny. Regulatory fees to recover the cost of issuing building permits and conducting inspections can be imposed but cannot exceed the costs of the regulatory purpose. Before new fees specifically targeting medical marijuana facilities may be adopted, the fee calculations must be studied, documented, presented to and approved by the City Council. The only way that the City may reliably generate revenue from a marijuana dispensary other than routine business license fees is to engage in the process to impose a tax on that sort of business. Such a tax would have to be approved by the electorate and all of the formalities of adopting a tax must be observed.

FISCAL IMPACT: Unknown

ATTACHMENTS: League of California Cities Presentation



Joint Meeting of the City of Brawley City Council and Planning Commission
MEDICAL MARIJUANA WORKSHOP

January 27, 2016 at 5:30PM

Lions Center

225 A Street

Brawley, CA 92227

Background. The City of Brawley currently prohibits the dispensing and cultivation of medical marijuana. With the passage of the Medical Marijuana and Safety Act, comprised of AB 266, AB 243 and SB 643, it has been determined that the City's existing ordinance is insufficient to address all aspects of the three distinct pieces of legislation. Formal action by the City Council is required to preserve local authority to prohibit or regulate such activities.

The public workshop aims to obtain public input. The direction provided by the City Council and Planning Commission will shape local policy development, defining if, where and how dispensing, cultivation and delivery will be allowed within the City of Brawley. If direction is provided to allow certain activities, the City may restrict activities to certain zoning designations and may also require a conditional use permit allowing future public hearings on site specific proposals.

Special Accommodations. Individuals who require special accommodations are requested to give 48 hours prior notice. Contact the Office of the City Clerk at 760-351-3080.



Informational Briefing: Medical Marijuana Regulation and Safety Act

- This briefing is designed to educate our members on the three bills comprising the Medical Marijuana Regulation and Safety Act (MMRSA). Its goals are to:
 - Explain how this legislation protects local control;
 - Review the details of what each bill does;
 - Highlight specific regulatory issues that require immediate attention from local governments;
 - Discuss timelines for implementation
 - Field your questions

Note: Some of the provisions of the new laws discussed in this briefing are not included in the Medical Marijuana Regulation and Safety Act.

Medical Marijuana Regulation and Safety Act

- The Medical Marijuana Regulation and Safety Act consists of three discrete pieces of legislation:
- **AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood)** – Establishes dual licensing structure requiring state license and a local license or permit. Department of Consumer Affairs heads overall regulatory structure establishing minimum health and safety and testing standards.
- **AB 243 (Wood)**– Establishes a regulatory and licensing structure for cultivation sites under the Department of Food and Agriculture.
- **SB 643 (McGuire)** - Establishes criteria for licensing of medical marijuana businesses, regulates physicians, and recognizes local authority to levy taxes and fees.

Medical Marijuana Regulation and Safety Act

- This legislation protects local control in the following ways:
- **Dual licensing:** A requirement in statute that all marijuana businesses must have **both** a state license, and a local license or permit, to operate legally in California. Jurisdictions that regulate or ban medical marijuana will be able to retain their regulations or ban.
- **Effect of Local Revocation of a Permit or License:** Revocation of a local license or permit terminates the ability of a marijuana business to operate in that jurisdiction under its state license.
- **Enforcement:** Local governments may enforce state law in addition to local ordinances, if they request that authority and if it is granted by the relevant state agency.
- **State law penalties for unauthorized activity:** Provides for civil penalties for unlicensed activity, and applicable criminal penalties under existing law will continue to apply.
- With certain exceptions, expressly protects local licensing practices, zoning ordinances, and local actions taken under the constitutional police power.



Medical Marijuana Regulation and Safety Act

- This legislation protects public safety in the following ways:
- **SB 643**: Establishes a track and trace program for all marijuana.
- **AB 266**:
 - Limits vertical integration by requiring third party distribution, transportation and testing.
 - Requires the development of a study that identifies the impact and impairing effect that marijuana has on motor skills.
 - Establishes uniform security requirements at dispensaries as well as for transporters.



Key State Medical Marijuana Laws

- **Compassionate Use Act of 1996** (Health and Safety Code section 11362.5). Criminal violations relating to possession and cultivation of marijuana do not apply to patients and primary caregivers for possession and cultivation of marijuana for personal medical use with doctor's approval.
- **Medical Marijuana Program** (Health and Safety Code section 11362.7 through 11362.9). Establishes voluntary program for identification cards issued by county for qualified patients and primary caregivers and provides criminal immunity to qualified patients and primary caregivers for certain activities involving medical marijuana.
- **Medical Marijuana Regulation and Safety Act** (Business and Profession Code section 19300 through 19360). Governs the licensing and control of all medical marijuana businesses in the state and provides criminal immunity for licensees.



Medical Marijuana Regulation and Safety Act

Two areas will require immediate attention from local governments:

- **Deliveries and mobile dispensaries:** Delivery is permitted with a State license unless a city adopts an express prohibition on delivery (AB 266).
- **Cultivation ordinances:** Cities must adopt an ordinance prohibiting or regulating cultivation prior to March 1, 2016. Otherwise the State will be sole licensing authority.

Medical Marijuana Regulation and Safety Act

- **AB 266 Medical Marijuana – what the bill does:**
- Establishes a statewide regulatory scheme administered by the Bureau of Medical Marijuana Regulation (BMMR) within the Department of Consumer Affairs (DCA).
- Provides for dual licensing: both a state license, and a local permit or license, **issued according to local ordinances**, are required.
- Caps total cultivation for a single licensee at 4 acres statewide, subject to local ordinances.
- Creates four licensing categories: Dispensary, Distributor, Transport, and Special Dispensary Status for licensees who have a maximum of three dispensaries. Specifies various sub-categories of licensees (indoor cultivation, outdoor cultivation, etc.)
- Limits cross-licensing: Operators may hold one state license in up to two separate license categories. Prohibits medical marijuana licensees from also holding licenses to sell alcohol.



Medical Marijuana Regulation and Safety Act

- **AB 266 Medical Marijuana – what the bill does:**
- Grandfathers in vertically integrated businesses (i.e. businesses that operate and control their own cultivation, manufacturing, and dispensing operations) if a local ordinance allowed or required such a business model and it was enacted on or before July 1, 2015. Requires businesses to operate in compliance with local ordinances, and to have been engaged in all the specified activities on July 1, 2015.
- Requires establishment of uniform state minimum health and safety standards, testing standards, and security requirements at dispensaries and during transport of the product. Product testing is mandatory.
- Specifies a standard for certification of testing labs, and specified minimum testing requirements. Prohibits testing lab operators from being licensees in any other category, and from holding a financial or ownership interest in any other category of licensed business.



Medical Marijuana Regulation and Safety Act

- **AB 266 Medical Marijuana – what the bill does:**
- **Labor Peace:** Includes a labor peace agreement under which unions agree not to engage in strikes, work stoppages, etc. and employers agree to provide unions reasonable access to employees for the purpose of organizing them. Specifies that such an agreement does not mandate a particular method of election.
- Specifies that patients and primary caregivers are exempt from the state licensing requirement, and provides that their information is not to be disclosed and is confidential under the California Public Records Act.
- Phases out the existing model of marijuana cooperatives and collectives one year after DCA announces that state licensing has begun. Thereafter license will be required.



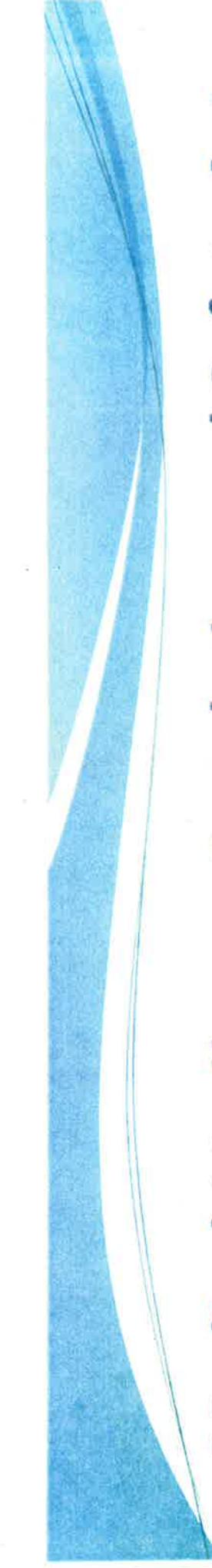
Medical Marijuana Regulation and Safety Act

- **AB 243 Medical Marijuana – what the bill does:**
- Places the Dept. of Food and Agriculture (DFA) in charge of State licensing and regulation of indoor and outdoor cultivation sites.
- Mandates the Dept. of Pesticide Regulation (DPR) to develop standards for pesticides in marijuana cultivation, and maximum tolerances for pesticides and other foreign object residue.
- Mandates the Dept. of Public Health to develop standards for production and labelling of all edible medical cannabis products.
- Assigns joint responsibility to DFA, Dept. of Fish and Wildlife, and the State Water Resources Control Board (SWRCB) to prevent illegal water diversion associated with marijuana cultivation from adversely affecting California fish population.



Medical Marijuana Regulation and Safety Act

- **AB 243 Medical Marijuana – what the bill does:**
 - Specifies that DPR, in consultation with SWRCB, is to develop regulations for application of pesticides in all cultivation.
 - Specifies various types of cultivation licenses.
 - Directs the multi-agency task force headed by the Dept. of Fish and Wildlife and the SWRCB to expand its existing enforcement efforts to a statewide level to reduce adverse impacts of marijuana cultivation, including environmental impacts such as illegal discharge into waterways and poisoning of marine life and habitats.



Medical Marijuana Regulation and Safety Act

- **SB 643 Medical Marijuana – what the bill does:**
- Directs California Medical Board to prioritize investigation of excessive recommendations by physicians;
- Imposes fines (\$5000.00) vs. physicians for violating prohibition against having a financial interest in a marijuana business;
- Recommendation for cannabis without a prior examination constitutes unprofessional conduct;
- Imposes restrictions on advertising for physician recommendations;



Medical Marijuana Regulation and Safety Act

- **SB 643 Medical Marijuana – what the bill does:**
- Places Dept. of Food and Agriculture in charge of cultivation regulations and licensing, and requires a track and trace program;
- Codifies dual licensing (state license and local license or permit), and itemizes disqualifying felonies for state licensure;
- Places DPR in charge of pesticide regulation; DPH in charge of production and labelling of edibles;
- Authorizes counties to tax – declaratory of existing law.



Medical Marijuana Regulation and Safety Act

- **SB 643: Disqualifying felony convictions for licensure**
 - These include felony narcotics convictions, violent felony convictions, serious felony convictions, and felony convictions involving fraud, deceit or embezzlement.
 - Applications cannot be denied if the denial is based solely on the applicant's conviction of a crime for which the applicant was subsequently granted a certificate of rehabilitation, or if the applicant's conviction was subsequently dismissed.



Medical Marijuana Regulation and Safety Act

- **Delivery of Medical Marijuana (AB 266)**
- “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health & Safety Code, or a testing laboratory.
- “Delivery” also includes the use by a dispensary or any technology platform owned and controlled by the dispensary or independently licensed under this chapter that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products. (Business & Professions Code 19300.5(m))

Medical Marijuana Regulation and Safety Act

• Delivery of Medical Marijuana (AB 266)

- *“Deliveries” can only be made by a dispensary and in a city, county, or city and county that does not explicitly prohibit it by local ordinance. Business & Professions Code 19340(a). See also Section 19340(b)(1).*
- Therefore, if your city wishes to prohibit delivery of medical marijuana within your city, an ordinance must be adopted to explicitly prohibit deliveries.
- Timing: State licenses are expected to be issued starting January 1, 2018. A facility or entity that is operating in compliance with local zoning ordinances and other state and local requirements may continue its operations until its application for licensure is approved or denied effective January 1, 2018 (Business & Professions 19321(c)).
- Ordinance explicitly prohibiting deliveries should include (1) an amendment to the zoning code prohibiting “delivery” (as defined in AB 266) in any zoning district; or (2) an amendment to the Municipal Code relating to business operations prohibiting “delivery” of ‘medical marijuana’ and “medical cannabis products” (as defined in AB 266) as a business within the city.



Medical Marijuana Regulation and Safety Act

- **Cultivation (AB 243)**

- AB 243 (Wood) prohibits cultivation of medical marijuana without first obtaining both a local license/permit/other entitlement for use and a state license. A person may not apply for a state license without first receiving a local license/permit/other entitlement for use.
- A person may not submit an application for a state license if proposed cultivation will violate provisions of local ordinance or regulation or if medical marijuana is prohibited by city, county, or city and county either expressly or otherwise under principles of permissive zoning (Health & Safety 11372.777(b)).

Medical Marijuana Regulation and Safety Act

• Cultivation (AB 243)

- However...If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, *either expressly or otherwise under the principles or permissive zoning*, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the state is the sole licensing authority for medical marijuana cultivation applicants (Health & Safety 11372.777(c)(4)). [March 1, 2016 deadline does not apply to cultivation for personal medical use within 100 square foot area/500 square foot area for primary care-taker].
- Under a “permissive” zoning code, “any use not enumerated in the code is presumptively prohibited.” *City of Corona v. Naulis* (2008) 166 Cal.App.4th 418, 425 cited in *County of Sonoma v. Superior Court* (2010) 190 Cal.App.4th 1312, FN. 3

Medical Marijuana Regulation and Safety Act

- **Cultivation (AB 243) – Examples:**
- **City #1:** Municipal Code that expressly prohibits cultivation of marijuana: No need to take any action.
- **City #2:** Municipal Code that expressly regulates (requires a permit or license or other entitlement) the cultivation of medical marijuana: No need to take any action.
- **City #3:** Municipal Code that does not expressly prohibit or expressly regulate (requires a permit or license or other entitlement) to cultivate medical marijuana and is not a “permissive zoning” code. ***Need to take action (see next slide)***
- **City #4:** Municipal Code that is a “permissive zoning” code and does not enumerate cultivation of medical marijuana as a permitted or conditional use: ***Need to take action (see second slide following).***



Medical Marijuana Regulation and Safety Act

- **Cultivation (AB 243) – Examples:**
- **City #3: What needs to be done before March 1, 2016?**
- **City #3:** Enact an ordinance. The Department of Food and Agriculture will be the sole licensing authority for the cultivation of medical marijuana within City #3 *if City #3 does not have an ordinance either expressly prohibiting or expressly regulating the cultivation of medical marijuana before March 1, 2016.* (Health & Safety Code 11362.777(c)(4). Second reading of an ordinance must occur by January 29, 2016 or a city may consider adopting an urgency ordinance pursuant to Government Code 36937).



Medical Marijuana Regulation and Safety Act

- **Cultivation (AB 243) – Examples:**
- **City #4: What needs to be done before March 1, 2016?**
- **City #4:** If City #4 prohibits the cultivation of medical marijuana “under principles of permissive zoning,” then the Department of Food and Agriculture may not issue a state license to cultivate medical marijuana within City #4. (Health & Safety Code 11362.777(b)(3)). ***However, the city still needs take action (see next slide).***

Medical Marijuana Regulation and Safety Act

- **Cultivation - General Guidelines for Cities**
- Check and confirm that your city's zoning code is adopted and implemented under the principles of permissive zoning. If not, take action recommended for City #3.
- If confirmed that your city's zoning code is adopted and implemented under the principles of permissive zoning: Adopt a resolution that includes the following provisions:
 - (1) States that H & S 11362.777(b)(3) states that Department of Food and Agriculture may not issue a state license to cultivate medical marijuana within a city that prohibits cultivation under principles of permissive zoning;
 - (2) Re-affirms and confirms that the Zoning Code is adopted and operates under the principles of permissive zoning;
 - (3) States this means that cultivation of marijuana is not allowed within City #4 because it is not expressly permitted and,
 - (4) Therefore, the State is not allowed to issue a license for the cultivation of medical marijuana within City #4.



Medical Marijuana Regulation and Safety Act

- Timeline for Implementation
 - None of the bills specify a timeline for implementation
 - This is partly due to various departments being at different stages in terms of their readiness
 - The rough timeline we have been given for state licensing to begin is January 2018
 - The more immediate timeline for locals to bear in mind is March 2016 regarding your cultivation ordinances

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Medical Marijuana Regulation and Safety Act

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• Questions?