

Agenda Item: ID#18-0750 (4-D)

Date: 6/14/18

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FRESNO CITY CLERK

FRESNO CITY COUNCIL



Supplemental Information Packet

Agenda Related Item(s) – ID#18-0750 (4-D)

Contents of Supplement: Letter from Michael Green

Item(s)

HEARING to consider submission of a Cannabis Business License Tax to the voters of the City of Fresno.

(1) *** RESOLUTION - Calling a general municipal election to be held on November 6, 2018; approving ballot measure text to be submitted to the voters of the City of Fresno imposing a Cannabis Business License Tax; requesting the assistance of the County of Fresno in connection with that election; and requesting consolidation of that election with any other election held on that date. (Subject to Mayor's veto)

Sponsors: City Councilmember Olivier, City Councilmember Baines III and City Councilmember Caprioglio

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

June 12, 2018

To:

Hon. Mayor Lee Brand

Hon. Fresno City Council members

Subject: Proposed cannabis business license tax

Regretfully, I am unable to attend Thursday's public hearing on the proposed cannabis business license tax ballot measure because of prior commitments. I am writing to express my strong support for the ballot measure, whether it is placed on the ballot as a special tax (good) or general tax (better).

For several years, I have advocated for medical cannabis patients under the umbrella of the Fresno Cannabis Association, an unincorporated association of Prop. 215 qualified patients. They remain concerned, as I'm sure you are too, about establishing safe access to state-licensed medical cannabis retailers after years of delay and opposition by certain city and county leaders. Whatever happens on Thursday, you are to be commended for tackling this difficult issue head-on.

Turning to the ballot measure, the first question is whether it is well-crafted. I can assure you it is. I have read dozens of local cannabis tax measures since 2016, when Proposition 64 was enacted, and I was the treasurer for the successful campaign to pass a commercial cultivation tax in Lake County, also in 2016. While the tax rates seem high at first glance (\$12/sf for cultivation; 10% on gross receipts for other licenses), they can be adjusted downward without further voter approval. The proposed tax rates are also in line with those imposed by other local jurisdictions with large population centers.

A second question is whether the local cannabis tax, when combined with state excise taxes, will create an undue financial burden on qualified patients, including seniors, veterans and disabled persons. This is a very valid concern, and that debate will continue at both the state and local levels for many years to come. Among the bills pending in the California Legislature are proposals to lower the state excise tax and to allow "compassionate care programs" to provide low- or no-cost medicine to patients without paying the state taxes that otherwise would be due. To engage in that debate in the City of Fresno at this time may be premature, however, since safe access cannot be established in a vacuum. The City, and its residents, are right to examine ways that the cannabis industry can pay its fair share prior to commencing operations. The proposed ballot measure does just that.

A related question is whether City voters will support a special tax, requiring 2/3 voter approval, rather than a general tax requiring only majority approval. On the one hand, the proposed "community benefit fund" and its oversight board may help allay fears that cannabis tax revenues won't be used to help offset some of the perceived negative impacts associated with cannabis businesses. On the other hand, ongoing opposition to cannabis reform in Fresno makes the 2/3 threshold very daunting. Based on my experience in Lake County and other areas, I can predict a general cannabis business tax will pass easily in Fresno. I can't make the same prediction for the special tax as it is currently proposed.

To that end, I offer two alternatives that may be more successful at the ballot box:

1. Direct the city attorney's office to bring back modified language for a general cannabis business license tax. The only substantive changes are the elimination of the "community benefit fund" and the appointed oversight board. An advisory panel could still be created by other means.
2. Rather than fight an uphill battle that pits cannabis supporters against cannabis opponents, craft a special tax that appeals to both sides' support for public safety. The "community benefit fund"

becomes a "public safety fund" with 10% of tax revenues allocated to police and fire services. Community-based projects and public health initiatives can still be funded with the remaining 90% of discretionary tax revenues, using the standard budgeting and oversight mechanisms of the mayor's office and City Council.

Finally, it is fair to question whether the tax ballot measure is putting the cart before the horse. Without having a firm grasp on the City regulations under which a limited number of cannabis retailers and businesses will operate, it is difficult to make accurate tax revenue estimates. With that said, the deadline to place a City measure on the November ballot is fast approaching. It seems prudent and proactive to allow City voters to weigh the potential benefits of a cannabis business license tax sooner than later, and a positive outcome could provide additional political capital needed to pass regulations. There are several real-life examples of this approach including Lake County, where voters approved the cannabis cultivation tax in November 2016. Commercial cultivation regulations weren't passed by the Board of Supervisors until March 2018, however, after several rounds of public input and debate.

While some may question the necessity and timing of the cannabis business tax, a quick review of the rapid changes happening around the state suggest very strongly that the City is on the right course. Fresno is the retail, trade and manufacturing center of the San Joaquin Valley, yet it cannot attract and retain state-licensed cannabis businesses without making substantial changes to its local ordinances, in particular its business license and zoning ordinances. The passage of Proposition 64 (2016) and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (2017) has led to the creation of a robust regulatory framework that will impact this generation and generations to come. Cannabis advocacy is changing, too; in January, I formed FresnoCann LLC as the successor to Fresno Cannabis Association. Public-private partnerships can be a powerful tool to help serve Fresno's patient base, but the very first step toward achieving that goal is establishing a framework for cannabis regulation and taxation.

Without belaboring the point, Fresno is my hometown and I remain very concerned about the lack of safe access for its thousands of qualified patients. I am also aware, through my contacts in other parts of the state, that Fresno is at risk of being left behind as a new, state-licensed industry emerges. Although many questions may remain about the size and scope of that industry, the proposed cannabis business license tax ballot measure is as close to a no-brainer as can be found in these uncertain times. Please grant the voters of Fresno the opportunity to demonstrate their support for cannabis reform.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael S. Green". The signature is fluid and cursive, with the first name "Michael" and last name "Green" clearly distinguishable.

Michael S. Green
FresnoCann LLC