



General Government Committee
501 Low Gap Road
Ukiah, CA 95482

February 27, 2023

Item 2a) *Discussion and Possible Action Including Providing Recommendations to Staff and Referral to the Board of Supervisors Recommending Approval of the County of Mendocino Cannabis Department Monthly Update for February (Sponsor: Cannabis)*¹

Honorable Supervisors,

In reviewing the MCD Report provided for this meeting, we have comments on several of the items presented.

Local Equity Entrepreneur Program (LEEP)

Mendocino County was denied Equity Grant Funding from the state due to receiving less than 50 points on the Round 4 Grant Application. This is the first time since the launch of the program that our County has been denied funding. While we have the application itself to review, and the knowledge that we received less than 50 points, the public does not know how those points were distributed in a way that would enable us to make strategic recommendations about revising the program. To this end, MCA requests to see the allocation of points received for each section of the application alongside the previous rounds of Grant applications and points they received that were approved. Requests to MCD have indicated that GoBiz does not provide this information. We request that MCD and the County reach out to GoBiz and request that they begin providing it, as there are indications in the MCD Update that our low score was attributed to many other factors besides the grant criteria. The report reads:

Additional points could be accomplished by establishing priority application processing opportunities, specialized permitting opportunities, and other programs that reduce barriers to entry specifically for local equity entrepreneurs.

If the county can not know exactly where and by how much its scoring fell short on the last application, especially after having successfully applied for the same exact funds in the past, we are at a disadvantage when reapplying for the next round. With over 250 approved Equity Applicants, it is essential that we make every effort to maximize our grant funding moving forward.

¹ Agenda Materials

<https://mendocino.legistar.com/LegislationDetail.aspx?ID=6040354&GUID=B88CFE4A-AB4A-4D9F-900F-196A3D76AD0E&Options=&Search=>

The MCD documentation indicates that there are \$1,197,525.49 remaining in equity funds that have not yet been assigned to applicants. Of these remaining funds, how much is left for Direct Grants and how much for fee waivers? The Department had previously increased individual grant limits to \$80K per applicant (from what had been \$50K per applicant) due to what Director Nevedal indicated was the 'ongoing' nature of this program. While at the time we appreciated the enhanced opportunity for some grantees, we felt that funds should be provided to all applicants before awardees had a chance to receive a second award.

MCD recently indicated that the operators who already received the \$50k grant will be put behind all other applications when they apply for the additional \$30k. This means that new applicants who have not received funding yet can apply for \$80k, but the prior applicants cannot have their additional \$30k reviewed until all \$80k applications are reviewed. At a minimum, we recommend that new applications that have yet to be funded should be limited to funding up to \$50k without having to revise any already approved budgets to avoid delays. Only once all designated equity applicants have received the initial distribution of up to 50K should operators be able to apply for an additional \$30k if funding is available.

This entire situation has created additional and unnecessary challenges for those that were informed they could apply for an additional \$30k and put in the tremendous effort to do so. This includes obtaining availability commitments from service providers and other time consuming work, only now to be told that their applications for the additional \$30k will not be reviewed until after all other applications. Given the failure to obtain round 4 funding, and the significant number of local equity designated operators, this will likely result in no funding for those applicants.

Thus multiple distinct issues must be addressed moving forward:

1. making sure that all applicants have the same opportunities;
2. ceasing the uncertain program conditions that prevent businesses from effective planning; and,
3. provide a simple modification process so that grants that are already issued can be adjusted easily to reallocate funds from one category to another,
 - a. This is especially important given the new changes in the total amounts that are available to each applicant, and the type of work (CEQA prep) that the county keeps changing its mind about whether it can or will conduct.

We request clarification on how MCD plans to distribute the remaining funds, and what criteria will be used to determine grant amounts for those who have already received funding vs. those who have not. We further request clarity on the allocation of the 'encumbered funds.' Are they only for operators currently in cobblestone, or also for applicants who have had Direct Grant budgets approved but have not yet entered cobblestone? And how will operators be informed by MCD when grant funds from Round 3 have been fully expended?

To be clear, the loss of these grant funds for equity operators at this critical juncture, along with the proposed shift of direct grant funds from LJAGP essentially cuts off licensed Mendocino

cannabis operators from significant pools of state grant monies that have been set aside to help them.

Further, the Department has continually disregarded the component of the Equity program that calls for revisions based on operator feedback to streamline and improve the program. This includes delays by County Counsel in reviewing the Cobblestone pipeline and determining if a shorter pathway is possible for these grant recipients.

Local Jurisdiction Assistance Program (LJAGP)

It is curious that the request for the reallocation of direct grant funds being discussed in agenda item 2b is absent from this report, which is being heard on the same day.

The delays with opening the applications for LJAGP grant funding have been significant. Originally slated to open in June or July of 2022, the application period only just opened on Feb 20. In advance of that opening there has been no meeting with Licensees to walk them through the application process. Some required documentation was made available on February 17, only 3 days before the application period opened, but the Application Guideline document was not posted until February 20 and the Budget and Matching Funds Template (which is required as part of the application) is still not posted as of Sunday February 25.

The public meeting that was scheduled to review the materials was rescheduled from Friday Feb 24 to Wednesday March 1, which is a full 9 days after the application window opened, and only 19 days until it closes. While this particular meeting delay is due to weather conditions, the repeated delays leading to this point have put even more pressure on operators to try and participate in this program. We have concerns that if the upcoming meeting is held in the same one-way question and answer style that MCD favors, without the ability for back and forth engagement on questions, it will not provide the most effective information possible to applicants. We request an interactive back and forth Q&A process for the March 1 meeting, that MCD extend the application window for at least 30 days, while initiating a rolling review of incoming applications beginning March 21, and request the opening of at least one other grant application window in the future.

Department Staffing

The Cannabis Department moved to Willits in November 2022, which per the MCD Report 'provided the department, for the first time since its establishment in the fall of 2021, the office space necessary to fill vacant positions.' Yet today nearly half of the allocated staff is still unhired. The move to Willits was known for a while before it happened. Prior to the move, the department blamed lack of hires on lack of space in Ukiah, but hires were not made to correspond with the availability of space upon the move. At this point, it seems that available space might not be the issue in finding qualified and interested candidates. Currently out of 22 positions, 9 (40%) are still unfilled after 3 months in the new location.

We request an update as to how many applications have come in for available positions since the move, and clarification on MCD's plan to address these staffing gaps if they are unable to attract applicants.

We also request an update on MCD training techniques, that all internal documents used for training be shared with the public, and an update on the status of all training of existing staff (which was the reason MCD closed to the public for many weeks). Finally we would like to know the lead time to train new hires and how that impacts the schedule to finish reviewing all applications and Appendix G's in the required timelines.

Additionally, there is a contract planner item on the consent calendar for the February 28 Board meeting which is not mentioned in this report. Why was this information not included in this Update? Why were the specifics of that agreement not reviewed in this committee before going to the BoS for approval?

We would like an explanation why the first service listed on the agreement is 'Completeness Check' when MCD has theoretically already completed those checks for applicants who now need Substantive review? We can not afford to waste any time in reviewing already reviewed applications again, but it is essential for the County to evaluate the agreements being made to ensure that they will result in the desired outcomes of efficient and cost effective ministerial permit application review and issuance.

Application Processing Update

More than anything else, this section of the MCD report shows significant overreach by MCD in relation to what the Board direction related to 'prioritizing' actually was. The MCD report says the direction from the Board was:

"to prioritize the review of applications that have active Department of Cannabis Control (DCC) licenses and have paid any associated local cannabis business tax."

However, the minutes from the April 19, 2022 BoS meeting² tell a different story:

Board Action: Upon motion by Supervisor McGourty, seconded by Supervisor Gjerde, IT IS ORDERED that the Board of Supervisors requires tax compliance for Cannabis Permit Renewal; directs staff to return to the Board with options for implementation of a payment plan; and directs the Executive Office to return with numbers regarding options for the tax rate.

Instead of prioritizing folks with current taxes and state licenses for Permit Renewals, MCD chose on its own to remove licensees who were in arrears completely from processing. This action was not the direction of the Board, and it has resulted in significant and dire consequences to the vast majority of local licensed operators.

² BoS Minutes 04-19-2021 Item 4e
<https://mendocino.legistar.com/View.ashx?M=M&ID=922494&GUID=98023168-6A1B-4682-BA1A-E4AC8276D6BA>

For example, operators who applied for a new state license to be in compliance with a local requirement to have both local and state, or who have had to change their type of state license, are now being prevented from being approved for a state license if they are categorized as de-prioritized at the local level, thereby creating a negative self-fulfilling prophecy to doom them to fail despite their effort to get into compliance by applying for the correct license from the state.

Additionally, the corresponding plan for tax payments, waiver of penalties and interest, and other tax related relief was critical to the decision to set a lower priority (not complete removal) for those applicants that were behind in their taxes. It has now been almost a year since that directive and it has turned into a de facto denial because of how the continued delays in processing even those that are current has played out, and because no tax plan has been implemented.

MCA strongly urges the GGC to re-direct MCD to cease this overreach, and to recommend to the full Board at the Feb 28 meeting to re-include any currently 'deprioritized' licensees into the queue for application review immediately.

As it stands, deprioritization is a death sentence for licensees and will cause permanent harm to those unfairly included. We largely support the Tax Payment Plan proposed in agenda item 2d (additional comments available in that memo), but given the short amount of time for processing applications before the July 1, 2023 state deadline, there is no time to waste in reprioritizing local licensees who wish to remain in the program and participate in a payment plan.

Annual Permit Renewal Update

The following statement is included in the Report:

“Department staff continues to work with County Counsel to finalize the use of compliance plans to provide a pathway to permit issuance for renewal applicants with incomplete building permits, to finalize the review of applications where vegetation modification has been conducted, and to conduct denials as necessary.”

We request substitution of the word 'conducted' with the word 'alleged.' The Department made clear in its initial letters to operators that it did not have specific evidence of actual 'vegetation modification' having occurred, but that they had 'concerns' it had occurred, whereupon they asked for unreasonable levels of evidence not specified in the ordinance. The use of the word 'conducted' in the above sentence assumes wrongdoing on the part of the operator, where the County thus far has not directly proven wrongdoing. The delays to permit renewals and equity eligibility caused by these allegations have resulted in an abject failure by the Department and indicate an overreach of significant proportions. This kind of language, if not changed, will provide a false representation of the situation in favor of the current position of MCD, which is still under review.

We would also like to call attention to the significant delays in timelines for renewals to be processed. Despite MCD's plan to review applications in the order of their State renewal date, applications that have made modification requests may need to be prioritized due to time

sensitive issues that may put operations at a standstill until approved. Many of these renewal applicants have already waited nearly a year for review, and the factors being considered by MCD for timely review may be insufficient to properly address all applicants' needs.

Application Review Update

The chart provided by MCD illustrates the obscenely excessive approach being taken to process ministerial permits. It also grossly underestimates the total number of applicants who, once reprioritized, will need to be processed through the system. MCD has chosen to exclude the numbers from this presentation, but these are not numbers to be excluded from a spreadsheet: these are people. These are our friends and neighbors, our volunteer firefighters and our soccer coaches. These are Mendocino County residents and valued community members, who MCD is attempting to erase, and they are doing it without the Board's direction. The GGC must act today, and bring its recommendations to the full board to ensure that the county stops its wholesale removal of licensees from the program.

We urge you to request updates to this report per our comments above prior to acceptance.

Thank you for taking the time to look into these items of concern. We appreciate your consideration of our recommendations.

Sincerely,

Mendocino Cannabis Alliance
e: info@mendocannabis.com