

ALAMEDA COUNTY BOARD OF SUPERVISORS' TRANSPORTATION/ PLANNING COMMITTEE

Monday, August 6, 2018
9:30 a.m.

Supervisor Scott Haggerty, Chair
Supervisor Nate Miley

Location: County Administration Building
Board of Supervisors Chamber
1221 Oak Street, Room 512
Oakland, CA 94612

Summary/Action Minutes

I. Amend Chapter 15.08 to the General Ordinance Code to Adopt Appendix G, Flood Resistant Construction of the California Building Code and Repeal Chapter 15.40, Floodplain Management, of the Alameda County General Code and Adopt a Revised Chapter 15.40, Floodplain [Attachment](#)

Bill Lepere, Assistant Agency Director, Public Works Agency presented a memorandum and draft ordinance amendments to Chapter 15.08 to the General Code to Adopt Appendix G, Flood Resistant Construction of the California Building Code and Repeal Chapter 15.40, Floodplain Management, of the Alameda County General Code and Adopt a Revised Chapter 15.40, Floodplain.

On May 26, 2017, the Federal Emergency Management Agency (FEMA) Community Assistance Unit conducted an audit to evaluate Alameda County's floodplain management program and found that the agency has been appropriately and effectively enforcing its floodplain requirements. However FEMA identified minor deficiencies with the County's Flood Prevention Ordinance, and recommended revisions to be adopted, and to codify certain procedures to lessen chances for liabilities and potential future violations. This includes, the adoption of Appendix G, Flood Resistant Construction of the California Building Code, into Chapter 15.08, and adoption of the revised Chapter 15.40, Floodplain Management General Ordinance Code.

The County is obligated to enforce the National Flood Insurance Program (NFIP) since it accepted participation into the program in 1981. Adopting Appendix G of the California Building Codes allows the County to become fully compliant with the NFIP. Failure to adopt these requirements could potentially result in reduction of the County's standing in the Community Rating System (CRS), and could translate into increases in flood insurance due to the loss of current deductions in the NFIP for County residents.

The Agency requests the Committee's support to Amend Chapter 15.08 to the General Ordinance Code to adopt Appendix G, Flood Resistant Construction of the California Building Code, and to repeal Chapter 15.40, Floodplain Management of the Alameda County General Ordinance Code and adopt a revised Chapter 15.40, Floodplain Management. Upon your approval, the Agency will forward these revisions for adoption by the full Board of Supervisors at the next available meeting.

Purpose:

- Report progress
 Advocacy or Education
 Request Transportation and Planning Committee recommendation
 Other:

Recommendation from Transportation & Planning Committee: Support. Move to the full Board of Supervisors.

II. Resolution in Support of an Ultra-Light Rail Transit System in Alameda County and in support of companies, including CyberTran International, Inc., seeking funding for such systems

[Attachment](#)
[Attachment](#)

Cindy Horvath, Senior Transportation Planner, Community Development Agency, presented a memorandum and draft resolution in support of an Ultra-Light Rail Transit System in Alameda County.

Over the last two decades, CyberTran International (<http://cybertran.com/>) has been engaged in developing alternative transit system concepts, specifically, *Ultra-Light Rail Transit Systems (ULRT)*, which could provide more convenient and cost-effective transit systems to build and operate in the future.

At the July 19, 2018 meeting of the Transportation & Planning Committee, a presentation and site visit was conducted at the CyberTran International, Inc. headquarters and test facility at the UC Berkeley Field Station in Richmond, CA. In the last few years, CyberTran officials have sought to establish collaborative relationships with a variety of local governments, including the cities of Richmond, San Pablo, Antioch, Brentwood, Oakley and Davis. These jurisdictions have passed Council Resolutions supporting CyberTran, and some have agreed to consider the CyberTran model of potential transit system when considering building future Transit Oriented Development (TOD) projects. CyberTran is reaching out to the Public Sector at this time to gauge local policy maker's interest in the concept, and their willingness to formally state support for future funding opportunities.

The Committee directed staff to complete a draft resolution for consideration and recommends that the Committee support moving the resolution to the full Board of Supervisors for adoption.

Purpose:

- Report progress
- Advocacy or Education
- Request Transportation and Planning Committee recommendation**
- Other:

Recommendation from Transportation & Planning Committee: Support. Move to the full Board of Supervisors.

III. Consideration of Potential Amendments to County Ordinances for Cannabis Retail Sales and Cultivation for Case-by-Case Review of Felony Convictions of Permit Applicants and Potential Cannabis Facility Employees and the Addition of Provisions Regarding Payment of Child Support

[Attachment](#)

Sophie McGuinness, Planner, Community Development Agency, presented a memorandum for consideration of Potential Amendments to County Ordinances for Cannabis Retail Sales and Cultivation for Case-by-Case Review of Felony Convictions of Permit Applicants and Potential Cannabis Facility Employees and the Addition of Provisions Regarding Payment of Child Support.

At the June 4th Transportation & Planning Committee meeting staff presented an outline of the felony prohibition provisions contained in the existing retail sales and cultivation ordinances (Chapters 6.106 and 6.108), and possible language options to remove or modify the current three-year felony prohibition provisions. The Committee directed staff to revise the cultivation and retail sales ordinances to modify the three-year prohibition to include a case-by-case review process similar to that contained in state law.

In addition, the County Department of Child Support Services has requested that provisions be added to the cannabis retail sales and cultivation ordinances to require that all cannabis permittees be current with their monthly child support obligations. Further, permittees would periodically submit a list of employees for the purposes of income withholding and child support enforcement.

Staff's understanding is that the position regarding persons convicted of a felony more than three years ago remains unchanged, and a felony conviction older than three years will not be grounds for refusal of a permit application or refusal to authorize a person to be engaged in a permitted cannabis operation. Staff seeks confirmed direction from the Committee in relation to this.

Staff has commenced developing a case-by-case felony review process for felony convictions within the past three years, including seeking input from the Cannabis Interdepartmental Work Group. The tasks involved in developing the felony review process include:

- Identifying which members of County staff should participate in the review process;
- Developing the review process, which will be coordinated by the Planning Department, but will involve review of felonies by County staff in offices, agencies and departments with relevant expertise;
- Drafting amendments to the cannabis ordinances that provide an opportunity for case-by-case felony review for felonies within the last three years; and
- Determining the costs associated with case-by-case felony review and determining whether and to what extent those costs should be recovered from applicants for felony review.

There are several challenges associated with adopting a case-by-case felony review process similar to that contained in MAUCRSA. Primarily, these challenges relate to implementing a framework that is broad and highly subjective. On this basis, staff is working to develop a comprehensive process for reviewing and determining whether a person who has been convicted of a felony within the last three years should be prohibited from being engaged in the operation of a cannabis facility.

The Cannabis Interdepartmental Work Group has recommended that the felony review process be an internal review conducted by staff from relevant offices, agencies and departments. Staff from the Community Development Agency, Sheriff's Office, District Attorney's Office, Health Care Services Agency, Probation Department and Public Defender's Office are collaborating to develop the case-by-case felony review process and to determine which staff should be involved in the reviews which may include representatives from some or all of those offices, agencies and departments.

Sergeant Brett Scheuller, Sheriff's Office, stated that the Sheriff's Office would prefer that the bright line 3-year prohibition currently contained in the ordinances be retained. If an alternative approach is to be adopted, the Sheriff's Office indicated that it would support the Prop 47/64 option outlined in the staff memo from the Board of Supervisors Transportation/ Planning Meeting on June 4, 2018, rather than the case-by-case review process.

Staff is working with the District Attorney's Office to obtain their detailed input and recommendations in relation to the proposed case-by-case felony review process.

Terry Symens-Bucher, Supervising Attorney for Department of Child Support Services, stated that the Department of Child Support Services (DCSS) has requested that the County's cannabis retail sales and cultivation ordinances be amended to require that all cannabis permittees be current with their monthly child support obligations. Further, that permittees be required to submit periodic reports of employees at cannabis operations in order to expedite income withholding for child support. DCSS staff provided Section 5-20.04.2.a.8 of the Yolo County Ordinance Code as an example of the type of provisions they propose to add to Alameda County's ordinances.

Staff requests direction from the Committee regarding the inclusion of child support provisions in the cannabis retail sale and cultivation ordinances.

Purpose:

- Report progress
- Advocacy or Education
- Request Transportation and Planning Committee recommendation**
- Other:

Recommendation from Transportation & Planning Committee: The Transportation & Planning Committee supports amendments of the ordinances to include the case-by-case review of felony convictions and also amendments concerning child support.

IV. Consideration of Issues Regarding County Ordinances for Cannabis Manufacturers, Distributors, Testing Laboratories and Microbusinesses and Outcome of Community Meetings – [Attachment](#)

Liz McElligott, Assistant Agency Director, Community Development Agency, presented a memorandum for Consideration of Issues Regarding County Ordinances for Cannabis Manufacturers, Distributors, Testing Laboratories and Microbusinesses and Outcome of Community Meetings.

At the June 4th Transportation & Planning Committee meeting, after discussion of potentially allowing additional types of cannabis operations in the unincorporated area, the Committee directed staff to obtain input from residents of the urban unincorporated communities regarding whether cannabis manufacturers, distributors, testing laboratories, or microbusinesses should be allowed in the unincorporated area and, if so, where they should be allowed. Supervisor Haggerty has indicated that he does not support allowing additional cannabis operations in District 1, which includes much of the East County. In response to strong community opposition, Supervisor Chan has consistently opposed the siting of any cannabis-related activities in or around San Lorenzo.

Castro Valley Municipal Advisory Council (MAC) Meeting

After hearing a presentation by staff and testimony from the public, the Castro Valley MAC adopted a motion to oppose any new ordinances that would permit cannabis manufacturing, distribution, testing laboratories, or microbusinesses in the Castro Valley General Plan area. The Council members noted that the proposed uses are industrial in nature and would not be compatible with the existing uses in the commercial areas of Castro Valley. They also expressed concern about the potential for an increase in crime associated with cannabis operations.

Cherryland Community Association Meeting

After discussing the potential additional cannabis businesses, the Cherryland Community Association Board submitted a letter to staff (attached) stating that, if their community could directly benefit from the operation of cannabis-related businesses in Cherryland, they would be willing to consider: A Testing Laboratory, or a Distributor, in a Commercial Office zone such as Meekland or Mission, provided that the Association had input into the Conditional Use Permit, and that they hired employees from within their community. If their existing permitted retail sales operation (Garden of Eden) wanted to expand into a microbusiness at their current location.

Ashland Community Association Meeting

Comments received at the Ashland Community Association meeting were generally supportive of allowing additional cannabis businesses. One community member spoke in favor of allowing additional cannabis businesses to provide economic opportunity for residents. She noted that any ordinances that are adopted should include equity measures and that cannabis businesses should be highly regulated.

July 25, 2018 Board Unincorporated Services Committee

At the July meeting of the Board Unincorporated Services Committee meeting, several residents from Castro Valley and San Lorenzo spoke against allowing cannabis-related businesses in their communities. The speakers noted the need for other types of businesses, such as grocery stores, which they said are not receiving the same level of support from the Board, and questioned the need for cannabis-related businesses. One speaker spoke in support of allowing manufacturers who produce products containing cannabidiol (CBD) oil, but do not contain tetrahydrocannabinol (THC). She noted that these products can provide health benefits, such as pain relief, to the community.

Based on additional direction from the Transportation & Planning Committee, in light of comments received at the community meetings, staff will prepare draft ordinances for cannabis manufacturers, distributors, testing laboratories, and microbusinesses for consideration at a future meeting.

Supervisors Miley stated that the Ashland and Cherryland communities are supportive of microbusinesses from Garden of Eden and We Are Hemp, as they have been good neighbors. Supervisor Miley is also supportive of resources generated from those businesses be used for the Ashland & Cherryland communities.

Speaker

Stan Stadelman asked if the present ordinance and amendments would allow additional cannabis retailers in the unincorporated area. In addition Mr. Stadelman asked if conditional use permits would be required for microbusinesses.

Albert Lopez, Director, Planning Department stated that the amendments are not yet drafted, however it is likely that there will be a conditional use permit process for microbusinesses. The amendments do not allow an increase in cannabis retailers in the unincorporated area.

Purpose:

- Report progress
- Advocacy or Education
- Request Transportation and Planning Committee recommendation**
- Other:

Recommendation from Transportation & Planning Committee: The Transportation & Planning Committee directed staff to draft ordinances allowing for Cannabis Manufacturers, Distributors, Testing Laboratories and Microbusinesses.

V. PUBLIC COMMENT

None.

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