

BLUE FOLDER ITEM

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CITY COUNCIL MEETING October 5, 2021

N.2. DISCUSSION AND POSSIBLE ACTION REGARDING CANNABIS STEERING COMMITTEE RECOMMENDATIONS

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- Sample template for application and selection process for licenses

Applicant Selection Process

In finding the best fit for the community, the primary goal of any selection process is that it should be transparent, fair and defensible. After considering several options for selection such as, first come first serve, lottery, and merit based, the committee has recommended a merit based selection process due to its ability to meet the above goals and maintaining control over selecting a best fit candidate for the community.

MERIT BASED SELECTION

A Merit Based Selection Process is one of the more fair and transparent ways to select the best fit operator. However, the process is far from perfect. Some of the experienced challenges to date have been:

1) Questions are Subjective

The questions asked are very subjective, which means those grading the applications aren't able to clearly defend why they gave the item a particular score. So oftentimes we see those who lost, challenge the entire process in a lawsuit and that becomes a major issue for the city. Pasadena is a prime example of how that drastically delayed their efforts in rolling out licensing. Here's an article regarding that: [Pasadena - Passed over cannabis applicants prepare to do battle with the city.](#)

An example of a subjective question:

Design Concept Creativity - Creativity of the physical design concept, how visually and experientially unique is the concept, including innovation and originality in aesthetics, atmosphere, imagery, signage, and branding?

This is a question that was on West Hollywood's application. A question like this can be subject to the taste of the grader and can be argued as not being an objective way to determine the best candidate.

2) Objective Questions can be copied

Objective questions are typically easier to defend.

An example of an objective question: (assuming you agree it's objective)

How will cannabis inventory be tracked and monitored to prevent diversion?

That question is from San Bernardino's application. However, this too was ultimately [legally challenged](#). Below is a quote from that [lawsuit](#):

Based on my review and analysis of the Scoring Breakdowns, below, I shall demonstrate objectively, statistically, and unequivocally that the Phase 3 rating process and ranking was subjective and biased against residents of the County and City of San Bernardino in violation of (i) Section 5.10.090(a) of the San Bernardino Municipal Code (the "SBMC") and (ii) the "Application Procedure Guidelines for a Commercial Cannabis Business" (the "Application Procedure Guidelines").

- Attorney Daimian Martin on behalf of Elliot Lewis

Objective questions are typically more easy to defend and as such are preferred. However, since the industry has been around for a few years now, applicants have been observed obtaining copies of others' winning applications and learn and copy their answers for their own application in another city.

The problem with objective questions is that there tends to be a most appropriate answer that almost anyone in theory could copy or respond with. That could leave a potential outcome of a tie or more when scoring the applications. In case of a tie how would an applicant be chosen?

3) **Overly Complicated Point System.**

Pasadena's application had a scoring system of up to 1,400 points. Some questions had a wide range of points given such as 1- 30, or 1-70, and even 1-200 points that could be awarded for a question. Combining such a wide range along with questions that could be challenged as being subjective, invites potential for accusations against the process. Points given should be defensible, and setting up a system where the grader would have to reason why they gave a 37 out of 70 to an applicant can quickly become problematic.

A scoring system should be relatively simple and the only time a large number is given to a particular question would be to weigh that question as more important than others.

A simplified scoring system is more defensible.

Additional Concerns

Phases

A primary additional concern that has come with this process is the fairness of costs associated. In short the typical application and licensing fee on a local level ranges between \$30-\$50K. Prop 64 states that licensing fees should not cost more than the need to cover the cost. The intent of that resolved two potential issues.

- 1) Promotes fair competition and doesn't favor well funded Big Businesses.
- 2) Doesn't incentivize local jurisdictions to profit from it, ultimately favoring big business and potential corruption issues.

West Hollywood ultimately received \$3M in application fees. The \$3M was way too large of a fee collected in comparison to the several people that were in charge of scoring the applications. Needless to say accusations started after the fact which ultimately prompted the city to adopt a refund policy:

"For any such application that is not accepted as complete, the applicant will be allowed to request a refund of their application fee".

The City of Montebello as well as San Bernardino opted to resolve the issue with a phased application process where applicants would have an initial nominal fee to submit and as they passed each round they would increasingly pay more. This provided for a better solution to avoid the optics of the city profiting from the effort and mitigated the potential financial impact of an applicant losing all of its application fees. It's proving to be a more fair and defensible approach.

Application Window

The City of LA has been incredibly slow to process its applications. The first round of licenses were given to existing operators in the city nearly 4 years ago. All of those licenses are in temporary status to this day, and an approximate 500 other applications have been waiting for nearly 3 years to even be processed for a temporary license, in complete limbo. In retrospect much of this issue could

have been resolved if their ordinance had better established timelines to accept and process applications.

The committee resolved some of this issue by recommending that there not be a property requirement as part of the application so as to not require a potential applicant to pay for the lease on a property while they wait. In the case of LA most of those applicants have been doing just that and now the city is increasingly being served lawsuits over it.

To better resolve the issue, the city should consider providing the fastest application window as possible. This in turn should provide a more prompt turnaround time on selection and processing. The City of LA recently [introduced a new motion](#) to address those application processing delays.

What is the committee's Recommended Application Process?

With the above issues to provide context, the subcommittee studied several other cities' application questions and began to focus the attention to the following areas of interest.

- Business Plan
- Local Employment/Ownership
- Neighborhood Engagement
- Social Equity (*The committee decided to revisit this in the future one day*)
- Products, Quality, and Safety/Testing
- Community Benefits (*The committee decided against any community benefits programs to avoid accusations of impartiality*)
- Safety Plan/Building Design
- Security Plan
- Experience/Qualifications

Taking all that into account here are some questions and potential solutions for your consideration.

- What are the Application phases?
- What are the Categories we care about?
- What questions should be asked in each category?
- Who should grade it?
- Who should do the interviews?

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What are the Application Phases?

	Recommendation	Reasoning
Phase 1	<p>Initial Submission and processing fee:</p> <p>Applicants will submit all required documentation such as:</p> <ul style="list-style-type: none"> - Developer Agreement Application - Business Plan - Ownership Disclosure Form - Security Plan - Live Scan - Fees 	<p>Phase 1 should be about confirming that all documents and fees have been submitted and paid for.</p> <p>If an applicant does not make it through this phase, the applicant will not be obligated to pay more fees. This structure mitigates lawsuits as seen from past cannabis applications in California.</p>
Phase 2	<p>Application Evaluation and processing fee</p> <p>The review committee will score the applications in this phase. Applicants will be charged another processing fee to cover the costs of review.. The applicants who score the highest overall points in scoring will move on to Phase 3.</p>	<p>The Application evaluation criteria will be a comprehensive document addressing all the subcommittees concerns and points of interest.</p>
Phase 3	<p>Interview Process and processing fee</p> <p>Applicants who score in the top 10% in Phase 2 will be interviewed and evaluated by the City’s scoring committee. Applicants will be interviewed and evaluated based on the below criteria:</p> <ul style="list-style-type: none"> - Qualifications of Owners- 2 points - Local Enterprise- 3 points - Business Plan- 3 points - Community Benefits- 2 points <p>All applicants interviewed in Phase 3 shall be ranked based on the above criteria and all application scores from Phase 2 and 3 will be combined to rank the order of applications. The top 2 applications will be awarded Cannabis Business Permits.</p>	<p>An Interview process in combination with the merit based application will limit the potential challenges against the process as a whole.</p> <p>It promotes a more fair and impartial process for all involved.</p>

Each winning applicant will need to execute a developer agreement with the city in order to have a Cannabis City License.

Applicants will have 12 months to secure an approved building that meets the zoning/buffer requirements of the ordinance and CUP.

What are the Categories we care about and how much are they valued?

Category	Total Points	Reasoning
Business Plan	30	The business plan is an important section of the application as evidenced by other city applications. This section will detail day-to-day operations and how the applicant will adhere to local and state regulations with their business.
Security Plan	5	The Security plan is a requirement for cannabis retail businesses by the State. The security plan will address concerns for the Police Department. While important it's formulaic and best practices can be copied from other applications. A good plan should be a given and hence why it isn't weighed as heavily.
Safety Plan	5	The Safety plan is a requirement for cannabis retail businesses by the State, therefore it is included in the application. The Safety plan will address concerns for the Police department and Fire department. While important it's formulaic and best practices can be copied from other applications. A good plan should be a given and hence why it isn't weighed as heavily.
Local Enterprise	30	The local enterprise section of the application provides a clear mission to reward small businesses with an opportunity to apply competitively for a retail license. This mirrors the values of the business community in Redondo Beach of local residents who understand the local community needs the best. Business owners with limited retail locations will have a greater vested interest and time to focus on Redondo Beach operations. The committee recognized the value of local ownership in studying South Lake Tahoe's ordinance and notes that a number of other jurisdictions have done similar such as San Luis Obispo and Costa Mesa.
Community Engagement	10	This provides an opportunity for the applicant to demonstrate their knowledge of the community.
Qualification of	20	Each city application process includes a qualification of owners

Owners		to ensure that the applicant who is chosen understands the responsibility and expectation of running a cannabis retail business in the city. Each subsection addresses questions as to the background of the owners, understanding of the industry, and involvement in the business.
	100 points	<p>The application scoring criteria represent the committee's review of other city applications and address specific concerns and considerations for a Redondo Beach business owner.</p> <p>The simplified scoring approach allows for a more transparent and defensible process.</p>

What questions should be asked in each category?

Business Plan- 30

- **Standard Operating Procedures - 5**
 - Description of day-to-day operations **0-5**
- **Online Ordering Systems- 2**
 - Detail, quality of plan for proposed online ordering system. Includes details about user friendliness, visual appeal, and customer verification. **0-2**
- **Testing Requirements - 2**
 - Detail, quality of plan and procedures for how all cannabis products on the premises or held by the applicant have met the testing requirements as defined by the State. **0-2**
- **Financial Plan - 3**
 - Detail, quality of plan that describes a budget for construction, operational costs, inventory costs, and a pro forma for at least three years of operation. **0-3**
- **Hiring Plan- 3**
 - Quality and detail of plan to promote local hiring (including local job fairs, percent of local employees). Details of business practices or characteristics that will demonstrate a focus on social equity in terms of providing above minimum wages, employee benefits and compliance with local, state, and federal employee non-discrimination policies. **0-3**
- **Delivery Plan 0-3**
 - Detail, quality of plan for proposed delivery operations. Includes description of customer verification, employee safety, product storage, compliance, standard operating procedures, and cash handling.
- **Inventory Plan 0-2**
 - Description of how the applicant's procedures will follow rules by the state in the track & trace systems, and the prevention of cannabis diversion.
- **POS System- 2**
 - Business plan includes a description of the point-of-sales system that will be used for retail operation, with details on inventory tracking, tax calculation, receipts, and compliance. **0-2**

Marketing Plan-3

- Uniqueness of proposed business, details of key aspects of marketing strategy that would be generated and incorporated into the marketing plan. **0-3**
- **Product Offerings- 5**
Detail of procurement plan, such as due diligence performed prior to executing purchase contracts and quality control of incoming products. Overall strategy for product assortment. **0- 5**

Security Plan- 5

- Detail, quality of security plan for the facility. This plan shall include details of security policies, camera systems, security personnel to be employed, interior security measures, and perimeter security. **0-3**
- Description of delivery Security policies and cash handling. **0-2**

Safety Plan- 5

Description of a safety plan, including the fire prevention, suppression, HVAC and alarm systems the facility will have in place. A quality plan will include all possible fire, hazardous material, equipment issues and how the applicant will deal with each specific situation. **0-5**

Local Enterprise - 30

Local Ownership -15

- Does the applicant demonstrate local ownership of the business.
- The maximum number of points will be awarded to an applicant that demonstrates a 51% majority ownership by a resident or multiple residents that have a minimum of five-years residency each in Redondo Beach. Majority ownership is determined by 51% ownership of the applicant entity at the time of the application submission. **0-15**

Small Cannabis Business -15

- Is the applicant a small cannabis retailer (Owners, as defined by the state, that hold less than 3 state and local cannabis retail licenses in California) at the time of application submission?
- The maximum number of points (15) is awarded to applicants that have less than 3 cannabis retail licenses in California. The maximum number of points (5) is awarded to applicants with 3 or more cannabis retail licenses. Applicants will be evaluated for small cannabis retailer status by common ownership (20%) in other retail businesses. **0 -15**

Community Engagement Plan- 10

- Detail, quality of the community engagement plan, including understanding of the community, its values, the city’s unique aspects, and how the applicant plans to integrate into the neighborhood: **0-5**
- Community engagement plan includes partnerships with existing local businesses (e.g. procurement of goods and services from local businesses) **0-3**
- Community engagement plan includes past and future cannabis education with local non-profits and other community groups. **0-2**

Qualifications of Owners- 20

Experience 0-5

Quality and quantity (number of years) in the cannabis industry of the individual(s) that will be directing, controlling, and/or managing the day-to-day operations of the business. To receive the maximum 5 points at least one individual must have 5 or more years of experience. Applicants with less than 5 years of experience but at least a minimum of 1 year of experience can receive up to 3 points.

Cannabis Industry Knowledge 0-5

Overall knowledge of the cannabis industry, including industry best practice, industry compliance and inclusion in trade organizations.

Ownership Team 0-5

Describe the involvement of the ownership team in day-to-day operation of the business. "Owner" is defined based on the state definition of owner. See State Business and Professions Code 26001.

References 0-5

Does the applicant have quality references from local county organizations, businesses, programs that demonstrate strong community involvement, industry advocacy, community values and professionalism. Local is defined as Los Angeles County. A maximum number of 3 references may be included.

Who should grade and Interview?

The Review and Interview Committee should be made up of city staff members who have subject matter knowledge.

City Council should be excluded from the selection process to avoid any accusations of impartiality.

Additional Recommendations

- 1) The Application process should have an appeals process associated with it as well.
- 2) There should be a limit of how large (in terms of pages) the application should be. This is to help limit the workload by the review committee. (75-100 pages is an average used by other jurisdictions).