

MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, March 3, 2016
2:00 PM

AGENDA

- I. **Call to Order**
 - A. Roll Call and Ex Parte Communication Disclosures
 - B. Changes to Order of Agenda
- II. **Public Comment**
- III. **Approval of Minutes**
 - A. January 28, 2016 Draft Action Minutes (Attachment)
 - B. February 4, 2016 Draft Action Minutes (Attachment)
- IV. **Planning Staff Report**
- V. **Chairperson's Report**
- VI. **Subcommittee Reports**
- VII. **Discussion and Action Items**
 - A. Election of Officers
 - B. Number of dispensaries: Discuss and vote on recommendation to include with the Council report. One attachment:
 1. MCC Rationale for Additional Dispensaries included with the June 3, 2014 Council report
 - C. Review Council report regarding dispensary recommendation and possible vote on Commissioners to review subsequent changes with staff. One attachment:
 1. Draft report to Council
 - D. Discussion of cultivation selection process and possible vote on creating a new subcommittee. Two attachments:
 1. Ranking and Allocation process for dispensaries (Council Resolution No 66,711-N.S., approved July 8, 2014)
 2. Selection process concerns from Chair Pappas
 - E. Discuss Council actions at February 23, 2016 meeting and vote on MCC representative for March 15, 2016 Council meeting re. Berkeley Municipal Code changes.
- VIII. **Information Items** (*In compliance with the Brown Act, no action may be taken on these items. However, they may be discussed and placed on a subsequent agenda for action.*)

None.
- IX. **Correspondence**

None.
- X. **Adjournment**

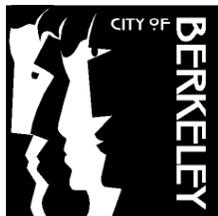
Berkeley Medical Cannabis Commission website: <http://www.cityofberkeley.info/medicalcannabis/>
Medical Cannabis Commission Secretary: Elizabeth Greene, 2120 Milvia Street, 2nd Floor, Berkeley CA 94704.
Phone: 510-981-7484 EGreene@cityofberkeley.info

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City commission, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, do not include that information in your communication – you may deliver communications via U.S. Postal Service or in person to the Commission Secretary. Please contact the Commission Secretary for further information.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Planning and Development Department located at 2120 Milvia Street, Berkeley CA. Please contact the Commission Secretary for further information.

 This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



MEETING OF THE MEDICAL CANNABIS COMMISSION

North Berkeley Senior Center
1901 Hearst Street
Multipurpose Room

Thursday, January 28, 2016
6:00 PM

SPECIAL MEETING DRAFT ACTION MINUTES

I. Call to Order – 6:05

A. Roll Call

Commissioners present: Cooper, Ferguson-Riffe, Jones (arrived at 6:10), Pappas, Rice, Tims.

Absent: Lampach (excused) and Rush.

Staff present: Secretary Elizabeth Greene, Principal Planner Alex Amoroso, Assistant Planner Kelly Cha, and Planning Intern Annelise Dohrer

B. Changes to Order of Agenda

None.

II. Consideration of Medical Cannabis Dispensary Applicants

A. Staff Introduction

Secretary Greene explained the format of the meeting and gave some background regarding the selection process to date and next steps.

B. Presentations by Dispensary Applicants (10 minutes each)

Presentations were given in the following order, based on a random drawing:

- The Apothecarium – 2578 Shattuck Avenue
- Berkeley Women's Cannabis Alliance, dba Blum Boutique – 2067 University Avenue
- The Cannabis Center – 1436 University Avenue
- iCANN Health Center – 3243 Sacramento Avenue
- Berkeley Compassionate Care Center – 2465 Telegraph Avenue
- Berkeley Innovative Health – 1229 San Pablo Avenue

C. Questions from the MCC (1 hour)

The MCC asked questions related to:

- Compatibility with neighbors
- Affordability of product
- Availability of free services
- Operations

- Experience in the cannabis industry.

8:05 – 8:15 - 10 minute break

D. Public Comment

Twenty-seven members of the public spoke. Most spoke in support of a dispensary. Two expressed concern regarding parking and other neighborhood impacts.

III. Information Items

None.

IV. Correspondence

None.

V. Adjournment

Meeting adjourned at 9:00 PM.

Nineteen late items were distributed at the meeting:

1. E-mail from Nina Taylor supporting Berkeley Compassionate Care Center (2 pages)
2. Cease and Desist order from Burke Hansen (Hallinan and Hallinan) regarding public comments related to Berkeley Compassionate Care Center (12 pages)
3. Letter from Zach Cowan to Burke Hansen in response to Cease and Desist order (2 pages)
4. E-mail from Kathy Olival supporting BCCC proposal (1 page)
5. E-mail from Ken Vanosky, Katherine Bierce and Jules Winters opposing iCANN proposal (3 pages)
6. E-mail from Caryn Pelegrino opposing iCANN proposal (2 pages)
7. E-mail from Ray Pelegrino opposing iCANN proposal (3 pages)
8. On-line petition supporting iCANN proposal (55 pages)
9. Flyer from 8-24-96 People's Park event supporting Proposition 215 (Medical Use of Marijuana)
10. Information from Apothecarium regarding proposal (3 pages)
11. Information from Berkeley Compassionate Care Center regarding proposal (6 pages)
12. Information from Berkeley Innovative Health regarding proposal (2 pages)
13. Information from iCANN regarding proposal (15 pages)
14. Lease between owner of 3243 Sacramento Avenue and iCANN dated 1-27-16
15. Letter from Holda Novelo updating the status of the Apothecarium's proposed location
16. Letter from Pasquale Pellegrino updating the status of Berkeley Compassionate Care Center 's proposed location
17. Letter from Shareef El-Sissi and purchase agreement updating status of the Berkeley Innovative Health's proposed location
18. Letter from Cecile Isaacs updating status of the Cannabis Center's proposed

location

19. Letter from Trevor Pratte updating status of iCANN's proposed location

Commissioners in attendance: 6

Members of the public in attendance: Approximately 100

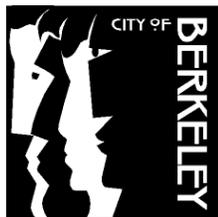
Public speakers: 27

Length of meeting: 2 hours, 55 minutes

APPROVED: _____

Elizabeth Greene

Medical Cannabis Commission Secretary



MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, February 4, 2016
2:00 PM

DRAFT ACTION MINUTES

I. Call to Order – 2:05

A. Roll Call and Ex Parte Communications

Commissioners present:

Cooper (no ex parte)

Ferguson-Riffe (no ex parte)

Jones (arrived at 2:35, no ex parte)

Pappas (no ex parte)

Rice (ex parte – received an e-mail from representative of the Apothecarium, instructed him to send communication to Commission Secretary),

Tims (no ex parte)

Absent: Lampach (excused) and Rush.

Staff present: Secretary Elizabeth Greene and Planning Intern Annelise Dohrer

B. Changes to Order of Agenda

Motion/second to move approval of minutes before public comment and to move Item IV.B (Vote on MCC representative) before Item IV.A (Consideration of fourth dispensary) (Rice/Ferguson-Riffe). Motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Pappas, Rice, Tims. Noes: None. Abstain: None. Absent: Jones, Lampach, Rush.)

III. Approval of Minutes

Chair Pappas asked that the minutes be amended to correctly reflect a statement he made in his Chair Report. The last sentence of Item V. shall be changed as follows:

“Disappointed in general at the lack of participation, involvement, attendance from local medical cannabis dispensaries that only one dispensary was involved in MCC meetings last year.”

Motion/second to approve the amended minutes. The motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Pappas, Rice, Tims. Noes: None. Abstain: None. Absent: Jones, Lampach, Rush.)

Chair Pappas gave a report. He urged the MCC and public to support the Planning Commission changes to the Zoning Ordinance, which will go before the City Council on February 23, 2016. He also mentioned the Mayor’s opposition to new dispensaries,

II. Public Comment

None.

IV. Discussion and Action Items

B. Vote on MCC representative for February 23, 2016 Council meeting: Berkeley Municipal Code Changes

A. Consideration and recommendation to City Council regarding Fourth Medical Cannabis Dispensary

Public Comment: 31 comments. Comments included testimony in support of individual dispensaries, one concern about impact of dispensary on neighborhood, and brief remarks from representatives of five of the six applicants.

(Commissioner Jones arrived during the public comment.)

MCC Discussion: Some MCC members expressed some frustration with the limitation to only one additional dispensary, and suggested recommending that the Council select more than one applicant. General agreement that the process was very difficult, since more than one applicant appears qualified. There were also procedural questions about the possibility of ownership changes after selection. There was discussion about sending all six applicants to the Council with an equal recommendation versus making a recommendation supporting one or more. There was also discussion regarding the type of recommendation to make, and how to come to a decision. It was determined that a recommendation of some kind should be made and that the recommendation should come from the MCC as a whole, not each individual Commissioner.

3:45 – 3:55 – 10 minute break

The MCC resumed discussion. The Commissioners asked questions of each applicant, related to:

- Status of proposed site
- Source of funding
- Possibility of buy-out by lenders
- Parking for proposed site
- Time needed to open
- Business plan
- Neighborhood concerns and relationship to neighborhood
- Other locations, existing and proposed

Discussion continued regarding how many applicants to recommend to the Council. Motion/second to recommend three applicants to the Council, and that each Commissioner should vote for his/her top three candidates to determine the three to recommend to Council (Cooper/Ferguson-Riffe). Motion carried 5-1-0-2. (Ayes: Cooper, Ferguson-Riffe, Jones, Rice, Tims. Noes: Pappas. Abstain: None. Absent: Lampach, Rush.)

Each Commissioner stated his/her top three choices:

Jones: BIH, BCCC, iCANN

Tims: iCANN, BIH, BCCC

Rice: iCANN, Apothecarium, BIH
Cooper: iCANN, Apothecarium, BIH
Ferguson-Riffe: iCANN, BCCC, BIH
Pappas: BCCC, Apothecarium, iCANN

Final tally:

Applicant Name	Votes
iCANN	6
Berkeley Innovative Health	5
Berkeley Compassionate Care Center	4
The Apothecarium	3
The Cannabis Center	0
Blum Boutique	0

C. Election of Officers

No discussion – continued to March 3rd meeting.

VII. Adjournment

Meeting adjourned at 5:15 PM.

28 late items were distributed at the meeting. See the updated packet for the February 4, 2016 meeting to view the late items:

[http://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3 -
_Commissions/Commission for Medical Cannabis/2016-02-04 MCC Packet%20.pdf](http://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Medical_Cannabis/2016-02-04_MCC_Packet%20.pdf)

Commissioners in attendance: 6

Members of the public in attendance: Approximately 75

Public speakers: 31

Length of meeting: 3 hours, 10 minutes

APPROVED: _____

Elizabeth Greene

Medical Cannabis Commission Secretary

MCC Rationale for Additional Dispensaries May 2, 2013

Considerations for Additional Medical Cannabis Dispensaries in Berkeley

1. Accept and choose more than one qualifying candidate, from a possible five, reaching and completing round 4, in BMCC permit process recommendations. (round 3 includes appropriate location, probable neighborhood approval, round 4 includes public hearing)
2. Long time, problem free local dispensary operations.
3. Proliferation- large scale collectives/ delivery services (3 or more each)- unregulated and untaxed, but indicating strong amount of patient need.
4. During most of the present Commission's tenure 3 MCDs as well as 3 large scale collectives operating in commercial districts have existed.
5. Closure of Berkeley Patients Group and zoning actions against at least 2 large scale collectives have caused Berkeley patients frequently to seek medicine out of town.
6. Increased revenue for the City, community services.
7. Amount of interest from the public at numerous BMCC meetings.
8. The May 2004 dispensary cap was directly motivated by Oakland's impending (June 2004) dispensary cap of 4, and perhaps somewhat in reaction to proposed Measure JJ which would have allowed existing Berkeley dispensaries permitting authority for new dispensaries.
9. Commercial space limitations preclude abundance of available, possible, suitable dispensary locations, and therefore are indeed a factor restricting the number of dispensaries. Expansion of zoning, may be a likely necessity even for 1 additional dispensary currently planned.

Dear Mayor and BCC,

The Berkeley Medical Cannabis Commission believe there are enough reasons to consider adding more than 1 additional permitted/regulated medical cannabis dispensary already mandated in Measure T. While some of you may be reticent to take the time for this discussion, the issues involved may be difficult, but inaction can cause worse consequences. Without proper political oversight, medical marijuana distribution in LA and SJ has been relatively chaotic when compared to other more orderly and regulated SF, Sacto, Oakland, Santa Cruz, Santa Rosa. More importantly, Berkeley patients' (and many adjacent nearby communities) needs, services, and accessibility deserve to be maintained, continued, and improved if possible.

Please don't forget due to the difference in State and Federal law, the hardships (BPG closing) patients endured during the resulting year and a half statewide Federal intervention with medical cannabis distribution. Therefore, this Commission asks that you make any and all necessary provisions and judgments for the benefit of local medical cannabis patients, Berkeley citizens and community.



Office of the City Manager

ACTION CALENDAR
MAY 10, 2016

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, Interim City Manager
Submitted by: Eric Angstadt, Director, Planning and Development Department
Subject: Selection of the City's Fourth Authorized Cannabis Dispensary

RECOMMENDATION

Review the information included with this report, including the recommendations of the Medical Cannabis Commission (MCC) and select one of the six applicants to be the fourth dispensary.

SUMMARY

The MCC held two meetings (January 28, 2016 and February 4, 2016) to consider the six medical cannabis dispensary applicants. The Commission voted to recommend three applicants to the Council:

- iCANN Health Center – 3243 Sacramento Avenue
- Berkeley Innovative Health -1229 San Pablo Avenue
- Berkeley Compassionate Care Center – 2465 Telegraph Avenue

FISCAL IMPACTS OF RECOMMENDATION

Selection of a new dispensary would generate additional revenue through sales tax. In 2014, the existing three dispensaries contributed a total of \$638,938 in City sales tax. The amount to be expected from a new dispensary would depend on the size of the business.

Additional costs to the City could come in the form of staff time needed to verify compliance with City regulations. An annual fee could be developed to cover this kind of cost. Any fee would need to be approved by the City Council.

CURRENT SITUATION AND ITS EFFECTS

Six applicants were considered by the MCC:

The Apothecarium – 2578 Shattuck Avenue

Berkeley Compassionate Care Collective – 2465 Telegraph Avenue

Berkeley Innovative Health – 1229 San Pablo Avenue

Selection of City's Fourth Cannabis Dispensary

Berkeley Women's Cannabis Alliance, dba Blum Boutique – 2067 University Avenue

The Cannabis Center – 1436 University Avenue

iCANN Health Center – 3243 Sacramento Avenue

A map of these proposed locations and their relationship to existing dispensaries and schools is included as Attachment 2.

The MCC held two meetings to consider the six final dispensary applicants:

January 28, 2016: The meeting was divided into three parts: 10 minute presentations from each of the applicants, questions from the MCC to the applicants, and public comment. The meeting was attended by approximately 100 members of the public.

February 4, 2016: The beginning of the meeting was used to take additional comment from the public. The remainder of the meeting was used by the MCC to discuss the six applicants, ask additional questions as necessary and make a recommendation to Council. The meeting was attended by approximately 75 members of the public.

The MCC used these meetings, along with the information listed below, to evaluate the six applicants:

1. Dispensary applications;
2. Staff rankings from Rounds 2 and 3;
3. Summary of the community meetings held by each applicant; and
4. Correspondence from the public regarding the applications. This also includes additional information from the applicants.

A link to the applications is available on the MCC's webpage:

<http://www.cityofberkeley.info/MedicalCannabis/>. The staff packets from the two meetings are included as Attachment 3. The January 28th packet includes a staff report which describes the dispensary map, staff rankings and community meetings and includes them as attachments.

At the February 4th meeting, the Commissioners discussed the six applicants and the type of recommendation that would be forwarded to Council. The final decision was to recommend the top three applicants. In order to do this, each Commissioner voted for his/her top three candidates. Below are the results of the voting:

iCANN Health Center: 6 votes (Cooper, Ferguson-Riffe, Jones, Pappas, Rice, Tims.)

Berkeley Innovative Health: 5 votes (Cooper, Ferguson-Riffe, Jones, Rice, Tims.)

Selection of City's Fourth Cannabis Dispensary

Berkeley Compassionate Care Center: 4 votes (Ferguson-Riffe, Jones, Pappas, Tims.)

The Apothecarium: 3 votes (Cooper, Pappas, Rice)

The Cannabis Center: 0 votes

Berkeley Women's Cannabis Alliance, dba Blum Boutique: 0 votes

The minutes for the January 28th and February 4th meetings are included as Attachment 4.

BACKGROUND

The following section summarizes the selection process and how it has been implemented.

Fourth dispensary selection process: On July 8, 2014, the City Council adopted specific regulations for medical cannabis dispensaries, as called for in Measure T. Since these new regulations would allow a fourth dispensary to operate in Berkeley, a Ranking and Allocation (selection) process was adopted at the same time.

The selection process was made up of four Rounds:

- 1) Round 1: Determination of Eligibility and Application (evaluate all applications for completeness and principal eligibility. Incomplete applications would not be forwarded to Round 2.)
- 2) Round 2: Initial Ranking (rank the applications based on the mandatory elements of the applications and forward the top ten applications to Round 3.)
- 3) Round 3: Second Ranking (rank the top ten applications based on the bonus elements of the applications and forward the top five applications to Round 4.)
- 4) Round 4: Selection (the top five ranked applications would hold public meetings and be considered by the MCC before the Council would make the final ranking and selection.)

See Attachment 5 for a complete description of these Rounds in Resolution 66,711-N.S., approved by Council on July 1, 2014.

Process to date: Once the selection process was approved, staff worked to develop the items necessary to conduct the selection process. An application form, guidelines and fees were developed and posted on the City's website in December 2014.

The application period ran from January 12 until March 20, 2015. Applications were only accepted if they included the initial fee, proof that the Principals had applied for a background check with the City of Berkeley's Police Department, and a proposed location.

Round 1: Twelve applications were received by the March 20th deadline. Staff reviewed the applications to determine whether information was missing from the applications. Based on the selection process guidelines, staff sent letters to all of the

applicants, giving each specific details regarding the information that was missing. All applicants were also asked to submit a letter from the property owner of the proposed dispensary site stating the owner's awareness of the application and willingness to consider renting to a medical cannabis dispensary.

The applicants were given 30 days, until April 29th, to submit this information. Four applications were deemed incomplete due to missing property owner verification, missing proof of organizational status and/or lack of an eligible Principal. A fifth applicant withdrew his application for personal reasons.

Round 2: The remaining seven applicants were reviewed by a panel of City staff appointed by the City Manager. Since there were fewer than 10 applicants in this round, the Round 2 rankings were not needed to identify the top 10 applicants for Round 3; all seven applications were forwarded to Round 3. The Round 2 was completed so that it could be used in combination with the Round 3 rankings to identify the top five applications.

Round 3: The remaining seven candidates were reviewed by the City staff panel. At this time, two of the applicants, iCANN and CRAFT, chose to consolidate their proposals, reducing the number of applications to six. Also during this time, the City Council held a hearing to consider a request by a former applicant (Charley Pappas) to reevaluate the status of his application which had been deemed incomplete by staff (Community Partnership 4 Health (CP4H)). At this hearing, the City Council did not take any action to change the staff determination regarding CP4H, but did approve a staff recommendation to forward all of the six remaining applicants to Round 4, rather than limiting that round to the top five candidates. Because all of the candidates were forwarded to Round 4, the staff ranking was not used to identify the top candidates.

Round 4: The six candidates each held a community meeting with residents and property owners of each proposed dispensary location. Each meeting was advertised to all residents and property owners within a 300-foot radius of the applicable proposed dispensary location. The purpose of each meeting was to allow the candidates to describe the specific proposal for a location and answer questions from the community. These meetings were held between November 7th and November 20th, 2015.

The MCC held two meetings to consider the six remaining dispensaries. The January 28, 2016 meeting focused on presentations by the six applicants, questions from the MCC to the applicants and public comment.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The recommendation follows the selection process approved by the City Council on July 8, 2014.

ALTERNATIVE ACTIONS CONSIDERED

Selection of City's Fourth Cannabis Dispensary

The City Council can select any of the six applicants that were considered by the MCC.

CONTACT PERSON

Elizabeth Greene, Senior Planner, Planning and Development, 981-7484

Attachments:

1. Resolution
2. Map of Berkeley showing schools, existing dispensaries and proposed dispensaries
3. January 28, 2016 ZAB Report and attachments (with notes from community meetings, the staff ranking matrix, additional information from applicants and all correspondence submitted before or during the January 28th and February 4th meetings.)
4. Minutes from the January 28, 2016 and February 4, 2016 MCC meeting

DRAFT

RESOLUTION NO. 66,711-N.S.

ADOPTING RANKING AND ALLOCATION CRITERIA AND PROCEDURE FOR
MEDICAL CANNABIS DISPENSARIES

WHEREAS, on July 1, 2014, the City Council adopted the first reading of a new Chapter 12.27 of the Berkeley Municipal Code, which establishes operating standards for medical cannabis dispensaries in Berkeley and will take effect thirty days following the second reading of the Ordinance; and

WHEREAS, when Chapter 12.27 becomes effective it will permit the operation of a limited number of additional dispensaries in Berkeley; and

WHEREAS, the City Council anticipates that there will be more applicants to operate the limited number of additional dispensaries than available slots, and accordingly some system for allocating those limited slots is necessary.

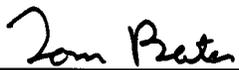
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Ranking and Allocation Process attached hereto as Exhibit A is hereby adopted.

The foregoing Resolution was adopted by the Berkeley City Council on July 1, 2014 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.



Tom Bates, Mayor

Attest: 

Mark Numainville, CMC, City Clerk

RANKING/ALLOCATION PROCESS FOR MEDICAL CANNABIS DISPENSARIES

INTRODUCTION

This process is adopted pursuant to and to implement Berkeley Municipal Code Chapter 12.27. The competitive process and criteria below will be used for determining which Dispensaries may fill any unoccupied slots under the City's 4-dispensary cap, adopted in 2010, and codified in Section 12.26.130. As of the adoption of this Process, there were three operating Dispensaries, and one open slot, however additional slots may become available in the future either as a result of attrition or amendment of Section 12.26.130, or for other reasons.

PUBLIC INFORMATION

Applications and associated materials in the possession of the City are public records. While certain information will likely be exempt from disclosure, other information will not be, and some information will necessarily be made public as part of the ranking process. In complying with the Public Records Act, the City will make reasonable efforts to keep sensitive information from being disclosed, but cannot guaranty that information an applicant may want to be kept confidential will not be disclosed. The City will make reasonable efforts to notify applicants whenever requests for disclosure of their information are received. The City shall not in any way be liable for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act, and applicants assume the risk of such disclosure by submitting their applications.

SUMMARY OF PROCESS

The ranking/allocation process shall consist of a single comprehensive application, and four rounds of evaluation, which are summarized below.

Round 1: Application and Determination of Eligibility

Staff will conduct a background and criminal history check and evaluate whether an application demonstrates eligibility under Section 12.27.030.

Each Principal must attain a passing grade on a Medical Cannabis competency test.

Successful applicants whose applications meet these requirements will be forwarded on to Round 2.

Materials submitted by applicants who do not pass the qualification round will be returned to them, and all copies of those materials will be destroyed.

Round 2: Initial Ranking – Minimum Qualifications

Applicants will be ranked based on criteria below.

- Proposed Location(s) of business
- Business Plan
- Neighborhood Compatibility Plan
- Safety and Security Plan

The top 10 applicants would move on to Round 3.

Round 3: Second Ranking – Bonus Points

Points will be awarded based on the categories listed below. The top five applications would move to the Selection process.

- Availability of Professional Services
- Community Benefits
- Enhanced Product Safety
- Environmental Benefits
- Labor & Employment
- Local Enterprise
- Location (final)
- Qualifications of Principals
- Consolidation

Round 4: Selection

The City Council will then make the final decision from among the top five candidates.

DESCRIPTION OF PROCESS

A. Round 1 – Application and Determination of Eligibility

1. Application Requirements

Before accepting applications, the City will give at least 60 days public notice that applications to operate a Dispensary or Dispensaries will be accepted pursuant Chapter 12.27. The notice shall specify a deadline for submission of applications, as well as the number of Dispensaries for which applications will be accepted.

All Applicants will be required to submit an application on a form provided by the City. Applications shall be signed by a Principal under penalty of perjury that she or he has personal knowledge of the information stated in the application and that it is true.

The application shall include such information as the City may require that demonstrates compliance with applicable provisions of Chapter 12.27, as well as the following:

1. The name of a single point of contact for the applicant, who shall be a Principal.
2. All information required by Section 12.27.040.
3. A description of the Dispensary and its proposed location(s), including the address of any proposed facility with proof of ownership, lease, and or letter of owner's willingness to lease. A signed lease is not to be given any additional consideration until Round 3.
4. Plans for alteration of any existing buildings.
5. Business Plan. The business plan must contain as much detail as possible on the day-to-day operation of the Dispensary and how it will conform to applicable state and local laws and the Attorney General's Guidelines. The business plan shall describe: mechanisms for ensuring that the Dispensary will operate on a Not-for-Profit basis; a description of how Medical Cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians and retaining all written recommendations from recommending physicians; a schedule for beginning operation, including a narrative outlining any proposed construction and improvements and a timeline for completion. The business plan shall include a budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs, and shall demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the sources and uses of funds. Proof of capitalization shall be in the form of documentation of cash or other liquid assets on hand, Letters of Credit or other equivalent assets. The business plan shall also include a pro forma for at least three years of operation.
6. Neighborhood Compatibility Plan. The application must describe how the Dispensary, including its exterior areas and surrounding public areas, will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.
7. Location(s). The application must describe the proposed location or locations of the Dispensary, all confronting and abutting uses, transit access and accessibility and nearby sensitive uses.
8. Safety and Security Plan. The application shall include a detailed description of Fire prevention, suppression, HVAC and alarm systems that includes an assessment of the facility's fire safety by a qualified Fire prevention suppression consultant. An appropriate plan will have considered all possible fire, hazardous material, and inhalation issues/threats and will have both written and physical mechanisms in place to deal with each specific situation.

The security plan shall include a description and detailed schematic of the overall facility security. Applicants shall detail their operational security including but not limited to general security policies for the facility, employee specific policies, training, sample written policies, transactional security, visitor security, 3rd party contractor security, and delivery security. In particular Applicants should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for access (area specific), types of security systems (alarms and cameras), and security personnel to be employed. The security plan shall also include an assessment of site security by a qualified security consultant. Security plans shall not be made public.

During the evaluation period, security plan details that could aid persons who wish to commit security violations shall be considered to be confidential and shall not be released unless ordered by a court.

9. Environmental Benefits. The application must describe any proposed “green” business practices relating to energy and climate, water conservation, and materials and waste management. Specific “green” practices that are encouraged are:
- a. maximizing energy efficiency;
 - b. where applicable, applying for and using available PG&E programs for free technical assistance for design and construction of building shell, tenant improvements, building systems and processes;
 - c. using renewable energy;
 - d. reducing transportation emissions (e.g., use of biofuels, electric vehicles);
 - e. using green building measures;
 - f. any other efforts to reduce or offset any greenhouse gas emissions
 - g. reuse and remediation of Brownfield sites;
 - h. water conservation, including recycling and on-site treatment, if permitted
 - i. developing a zero waste plan for operations;
 - j. minimizing packaging and using recycled content, recyclable and reusable materials, throughout the supply chain;
 - k. implementing a reuse plan for materials used;
 - l. providing a prediction of and implementing an operational phase waste stream broken down by refuse, recycled materials and composted materials by volume;
 - m. using organic fertilizers and pest control measures; and
 - n. minimizing use of hazardous or toxic substances and preventing them from entering the soil, air or water.
10. Community Benefits. The application shall describe benefits that the Dispensary would provide to the local community. Examples of such benefits are:
- a. providing re-entry jobs and job training to the unemployed;
 - b. contributing to/supporting domestic violence prevention programs;
 - c. contributing to/supporting Parks and Recreation Centers, libraries, or funding for arts, culture, and environmental programs;
 - d. contributing to/supporting Children/Youth programs and intervention services;

- e. contributing to/supporting substance abuse education and rehabilitation programs;
 - f. funding foreclosure prevention and foreclosure abatement programs, including eviction defense following foreclosure;
 - g. provision of high quality Medical Cannabis to low income Members;
 - h. any other neighborhood improvements.
11. Enhanced Product Safety. The application shall state how the Dispensary will ensure enhanced consumer safety by testing for biological and chemical contaminants, specified by the City Manager pursuant to state or federal standards for food, drugs or tobacco.
12. Labor and Employment. The application shall describe to what extent the Dispensary will adhere to heightened pay and benefits standards and practices, including recognition of the collective bargaining rights of employees. Specific practices that are subject to consideration include the following:
- a. providing compensation to and opportunities for continuing education and training of employees/staff (applications should provide proof of the Dispensary's policy and regulations);
 - b. being a "card check-neutral" facility;
 - c. having obtained pre-existing recognition from a certified labor union;
 - d. being party to a collective bargaining agreement with a certified labor union; and
 - e. providing a "living wage" to facility staff and employees. Wage scale should be provided in writing for all levels of employment at the facility. "Living Wage" shall mean 200% of the minimum wage mandated by California or Federal law, whichever is greater.
13. Local Enterprise. The application shall state the extent to which the Dispensary will be a locally managed enterprise whose Principals reside within Berkeley and/or the following adjacent cities: Albany, Kensington, Oakland and Emeryville.
14. Availability of Professional Services. The application shall state the extent to which the Dispensary will provide professional services related to the use of Medical Cannabis to Members, whether on- or off-site. Such services may include, but are not necessarily limited to, medical or technical consulting, referrals to providers of such services, mental health services, alternative health care to the extent permitted by state law, diet and nutritional advice, and similar types of services, but shall not include recommending the use of Medical Cannabis.
15. Qualifications of Principals. The application shall include information concerning any special business or professional qualifications or licenses of principals that would add to the number or quality of services that the Dispensary would provide, especially in areas related to Medical Cannabis, such as scientific or health care fields.

2. Determination of Eligibility

Staff will undertake background and criminal history checks, verify whether the applications provide complete and accurate information and demonstrate compliance with the eligibility requirements of Section 12.27.030.

If an application meets these requirements, each Principal will be required to attain a passing grade on a Medical Cannabis competency test to demonstrate a working knowledge of state and local compliance standards.

Applications that include all required information will be considered.

Late and incomplete applications will not be considered.

Applicants who pass the Medical Cannabis competency test and whose applications meet these requirements will be eligible to continue to Round 2.

Determinations in Round 1 will be final and not be subject to appeal.

3. Competitive Ranking Process

Applications that pass Round 1 will be reviewed by a three-person panel of City staff designated by the City Manager. The reviewing panel will evaluate applications in each succeeding round based on how well they satisfy the criteria for that round. In evaluating applications, the reviewing panel shall consider the quality and responsiveness of the application with respect to each of the topics covered. The evaluation and ranking of the applications and allocation of Dispensary slots shall lie within the sole judgment and discretion of the reviewers.

B. Round 2 – Initial Ranking: Minimum Qualifications

In Round 2, the reviewing panel will evaluate each application against the criteria in, and assign points based on, the following table.

Topic	Maximum Possible Points
Proposed Location(s)	400
Business Plan	300
Neighborhood Compatibility Plan	400
Safety and Security Plan	400
Total possible	1500

The top 10 applicants will move on to Round 3.

The reviewing panel will rank the remaining applicants by assigning points in each of the categories in the table below. "Consolidation" points shall be awarded for consolidation with one or more of the other top ten applications. The top five applications, based on the total number of points from Rounds 2 and 3 will then move to

the Selection process. In the case of a consolidated application, the average number of total points shall be used.

C. Round 3 – Second Ranking: Bonus Points

Topic	Maximum Possible Points
Availability of Professional Services	300
Enhanced Product Safety	200
Environmental Benefits	200
Community Benefits	300
Labor & Employment	300
Local Enterprise	500
Location (final)	500
Qualifications of Principals	500
Consolidation (with applicants that pass Round 2)	150 for each consolidation, maximum of 300
Total possible	2800 (plus up to 300 for consolidation)

D. Round 4 – Selection

Within 45 days after Round 3 is completed, each applicant shall conduct a public meeting in the area or areas proposed for its Dispensary. If no location in the immediate area is available, the applicant shall use a community facility that is as near as possible. Notice of such public meetings shall be on a form approved by the City and shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings. Within 5 days after notice of the public meeting is mailed, an applicant shall provide to the City a copy of the notice of the public meeting, a list of addresses to which it was sent, and an affidavit of mailing. An applicant that does not hold a public meeting within this period of time shall be disqualified.

After the public meetings are completed the applications shall be presented to the Medical Cannabis Commission, which may make a recommendation to the City Council.

The City Council will then establish the final ranking of applications and make its selection from among the top five.

Notice of the public meetings of the Commission and Council shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings.

Medical Cannabis Commission Cultivation Selection Process Concerns – Chairman's Input

1. While considering the dispensary application process, we should discuss the differences in the competitive process licensing one dispensary, matched against cultivators, without a limit on the number of licenses, only total square footage.
2. Considering both my commissioner experience, my disappointing application presentation & result, and the current status of applicants (recommended or not), I believe cultivation licensing should be a less formal process, perhaps even without mayor/BCC final judgement .
3. There is certainly opposition from the mayor to naming a fourth dispensary; therefore, opposition to cultivation licensing should be expected.
4. Nevertheless, the importance of regulated, orderly, taxed cultivation seems quite clear amongst this group of commissioners.
5. To attain that goal, albeit possibly futile, we should proceed incrementally and discuss carefully the best plan for cultivation licensing selection.
6. Besides explaining, enlightening, and hopefully enlisting the attention and support of our individual commissioner appointees, we must concentrate on neighborhood groups such as WEBAIC.
7. Consider forming a subcommittee for some diligent efforts working on 5 & 6 as well as exploring means to reach our goal.
8. Upon conversations with staff and city attorney Zach Cowan- the lack of a competitive nature for the cultivation process makes for less complicated licensing without requiring mayor and city council oversight/ final approval. Also, other commissions make decisions outside of mayor and council scope.