



VISION STATEMENT:
"The Magic City: A diverse,
welcoming community
where people prosper and
business succeeds."

WORK SESSION AGENDA

COUNCIL CHAMBERS

December 6, 2021

5:30 P.M.

CALL TO ORDER: Mayor Cole

1. **COVID-19 Update by Unified Incident Command (UIC).**
(Presented by: John Felton, Yellowstone County Health Officer)
- Public Comment
2. **Marijuana Business License Fees.**
(Presented by: Andy Zoeller, Finance Director)
- Public Comment
3. **2022 Council Meetings.**
(Presented by: Chris Kukulski, City Administrator)
- Public Comment

COUNCIL DISCUSSION:

PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required. (Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)

ADJOURN:

CLOSED EXECUTIVE SESSION* (Pending Litigation)

Note:

- This meeting is an "informal" meeting of the City Council. The content of the Agenda is subject to change at the meeting.
- In the event there is a Closed Executive Session at the end of a Work Session, the sole purpose is to discuss litigation strategy. The other parties to the case(s) discussed are not public bodies or associations as described in Section 2-3-203(1) and (2), MCA. The meeting is closed, as allowed by Section 2-3-203(4)(a), MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.

City Council Work Session

Date: 12/06/2021
Title: Marijuana Business License Fee
Presented by: Andy Zoeller, Finance Director
Department: Finance
Presentation: Yes

RECOMMENDATION

No City Council action is needed at a work session. Council action on the resolution establishing license fees will be on the December 20, 2021 City Council meeting.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On November 22, 2021, City Council approved the 3rd reading regulating the marijuana businesses. These regulations of marijuana industries will require additional resources within Business Licensure, Code Enforcement, and Fire Inspection.

The goal in determining an appropriate license fee is to set it such that the additional costs associated with regulating marijuana businesses is recouped by the license fee for those businesses.

Staff estimates the total costs associated with regulating marijuana businesses will require approximately 0.58 FTE's and an estimated \$5,000 to administer a lottery, which is estimated to be a combined total cost of \$68,189 in FY23 across these three divisions of the City.

Estimated Costs

Business Licensure - .03 FTE - \$2,243
 Fire Inspection - .05 FTE \$8,060
 Code Enforcement - .50 FTE \$52,887
 Dispensary Lottery Cost (if needed) - \$5,000

Next these costs were allocated to each license type (Dispensary, Cultivation, Transportation, Manufacturing, and Testing), based upon an assumed percentage of time spent in each area.

Allocation

License Type	Business License	Code Enforcement	Fire Inspection	Lottery	Allocated Cost
Dispensary	20%	50%	15%	100%	\$33,101
Cultivation	20%	20%	25%	0%	13,041
Transportation	20%	20%	40%	0%	449
Manufacturing	20%	20%	40%	0%	14,250
Testing	20%	10%	20%	0%	7,349
Total	100%	100%	100%	100%	\$68,189

Finally, these costs needed to be spread across the estimated number of licensed businesses within each category. In order to estimate the number of licenses within each category, staff looked at locations outside of Montana that had public information available. Compared the populations of these areas and made adjustments to more accurately reflect the City of Billings. The locations that were reviewed were Grand Rapids Michigan, Deschutes County (Bend) Oregon, Jackson County (Medford) Oregon, Anchorage Alaska, and Fairbanks Alaska. Based upon that information the assumption was made that there would be the following number of businesses located within Billings:

Estimated number of licenses

Business Type	Estimated number of Businesses
Dispensary	8
Cultivation	3
Transportation	2
Manufacturing	3
Testing	2

Because it is not realistic to enforce much regulation on the transportation of marijuana due to the mobile nature of

the business, staff is recommending that license be set at the regular business license amount of \$55.

ALTERNATIVES

City Council will be asked for feedback on the fees and a resolution will be presented for consideration on December 20, 2021.

FISCAL EFFECTS

The estimated costs of regulating marijuana businesses for FY23 is \$68,189. Staff is recommending that fees for marijuana businesses be set such that these costs are covered by the license fees. In order to do so, the following annual fees are being proposed for each license classification:

Marijuana Business Classification	Annual License Fee	Estimated Annual Costs to be Recovered
Dispensary	\$4,140	\$33,101
Cultivator	\$4,350	\$13,041
Transporter	\$55	\$449
Manufacturer	\$4,750	\$14,250
Testing Lab	\$3,675	\$7,349

SUMMARY

Staff has made many assumptions in determining a proposed license fee. Council will be asked for feedback on these assumptions. For example:

Is the overall goal of covering additional costs with revenue from license fees what Council wants?

If not, how should the costs associated with enforcement be covered?

Does council think the estimated number of businesses in each category is reasonable?

If the estimated number of businesses changes, the annual license fee will be impacted

Are there other scenarios that Council thinks staff should examine?

Date: 12/06/2021
Title: 2022 Council Meeting Discussion (day of the week, work session location & hybrid attendance)
Presented by: Chris Kukulski, City Administrator
Department: City Hall Administration
Presentation: Yes

RECOMMENDATION

Council to discuss the merits of moving Council meetings from Mondays to Tuesdays; consider holding council work sessions at the library community room and; consider establishing rules to allow council members to participate remotely using live video technology (like Zoom).

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

By ordinance, the City Council holds its regular city council meetings on the 2nd and 4th Mondays of each month at 5:30 PM in the Council Chambers and work sessions are held on the 1st and 3rd Mondays at the same time and location. After speaking with my colleagues and considering the potential positive impact for the Council, staff and public, I believe it is worth considering moving council meetings from Mondays to Tuesdays. The following may be benefits of such a move:

- Improved meeting preparation. Throughout my career, I've observed that most council members review council packets over the weekend. Tuesday meetings, provide an additional business day to receive answers to questions and think through the packet material you've reviewed.
- The additional business day increases the opportunity for staff to respond to council member questions during the work week rather than over the weekend.
- Billings Public Schools also hold school board meetings on Mondays at 5:30
- Whenever Mondays are the observed national holiday, the meetings are already moved to Tuesdays.
- When it comes to energy and productivity, starting the work weeks with a 12, 13 or 14 hour day is a lousy way to start the week or come off from a weekend of enjoying Montana.

Council work sessions are, by design, less formal. By moving the work sessions away from the formal "council chambers" to a location where the Council, staff and "presenters" can be seated at the same table, we may foster a more conversational discussion. Now that the library community room has been fully set up for live meetings and recordings, we have a more informal option that did not exist before the pandemic.

We learned through conversations with our peers around MT, that most are still conducting formal business meetings via Zoom. Billings made the change back to, live only city council meetings after the Governor lifted the state of emergency tied to the pandemic. After further review of the Montana Constitution and the recent Attorney General's letter of advice, we concur with our peers that live video participation is permissible. City Attorney Dahl offers the following:

"It is my legal opinion that neither the Constitution nor the statutory provisions of the public's right to know and participate require actual physical presence. This opinion is supported by the AG letter of advice provided to cities and counties at the beginning of the pandemic which states 'our previous analysis of cases and statutes revealed the intent that the public be provided the reasonable opportunity to participate and observe while the manner or mechanism is not defined,' while noting that '...the manner by which notice, participation and observation are provided to the public must be reasonable.' This same analysis and review of the existing case law and AG Opinions could lead to a reasonable conclusion that continuing to conduct both virtual or hybrid meetings, following the guidelines attached to the AG letter of advice, meets the constitutional and statutory requirements for notice, participation, and observation. I don't believe the Montana Supreme Court would be inclined to read the Constitution in a way that does not allow the public to continue to participate in a way that makes it more accessible for them and keeps them safe during a pandemic (which is still in effect) especially if the option is a hybrid meeting which allows a choice to do either."

ALTERNATIVES

City Council may:

- Decide to pursue one, two or all three of the above-mentioned ideas; or,
- Not pursue any of the ideas

FISCAL EFFECTS

Implementing the ideas identified above is not expected to directly save or cost more money than our current practices. However, if by moving the council meetings to Tuesdays, we come better prepared. Meetings should be more productive, saving time and money.

SUMMARY

The Council will consider the merits of moving Council meetings from Mondays to Tuesdays; consider holding council work sessions at the library community room and; consider establishing rules to allow council members to participate remotely through a live video feed (like Zoom). No final decisions will be made. If the council decides to pursue any of the three ideas, code amendments will be required.
