



Alejandra Zambrano <azambrano@cityofsuttercreek.org>

Fwd: Webform submission from: Contact City Council

Tom Dubois <tdubois@cityofsuttercreek.org>
To: Alejandra Zambrano <azambrano@cityofsuttercreek.org>

Mon, Jul 13, 2026 at 8:47 AM

----- Forwarded message -----

From: **Sutter Creek CA** <noreply@civicplus.com>
Date: Mon, Jul 13, 2026 at 8:03AM
Subject: Webform submission from: Contact City Council
To: <pcaronongan@cityofsuttercreek.org>

Submitted on Mon, 07/13/2026 - 8:01 AM

Submitted by: Anonymous

Submitted values are:

First Name

Brian

Last Name

Comnes

Question/Comment

Dear Councilors, on a cynical note lets plan on enhancing the duck race or ragtime festival with Embarc. Note that their express purpose is to introduce onsite cannabis sales and consumption at the renowned Monterey event, aligning with Embarc's mission to destigmatize cannabis through safe, regulated experiences that allow consumers and the curious to learn about California's diverse cannabis landscape.

See <https://www.prnewswire.com/news-releases/embarc-launches-the-smoke-show-at-cali-roots-music-festival-a-first-of-its-kind-cannabis-experience-302134069.html>

Or maybe just one of you who voted Yes in February can preserve the character of this town and vote No come August

The choice is yours



Alejandra Zambrano <azambrano@cityofsuttercreek.org>

Fwd: The Embarc DA includes a tax that needs a public vote

Tom Dubois <tdubois@cityofsuttercreek.org>
To: Alejandra Zambrano <azambrano@cityofsuttercreek.org>

Mon, Jul 13, 2026 at 12:12 PM

----- Forwarded message -----

From: **Brian Comnes**

Date: Mon, Jul 13, 2026 at 12:11 PM

Subject: The Embarc DA includes a tax that needs a public vote

To: Julia Sierk, Jim Swift, Dan Riordan

<driordan@cityofsuttercreek.org>, Claire Gunselman <cgunselman@cityofsuttercreek.org>, sfeist@cityofsuttercreek.org

<sfeist@cityofsuttercreek.org>, Tom Dubois <tdubois@cityofsuttercreek.org>

Cc: Glenn Spitzer, Teresa Ryan, Christy Melton

Please add this message to the administrative record on the dispensary.

A percentage-of-gross-revenue charge on a dispensary is a **tax**, not a fee, and under California's Constitution it needs voter approval.

Here's the framework:

- **Article XIII C (Prop 218, tightened by Prop 26)** requires any new or increased local tax to go to the voters. A **general tax** (revenue goes to the general fund) needs a simple majority vote. A **special tax** (revenue earmarked for a specific purpose) needs a two-thirds vote.
- Prop 26 (2010) broadened the definition of "tax" so that *any* levy, charge, or exaction by a local government is presumed to be a tax **unless** it fits a narrow exception — e.g., a fee for a specific service/benefit provided directly to the payer, a regulatory fee that doesn't exceed the reasonable cost of regulating the activity, a fine/penalty, or a property assessment.
- A percentage-of-gross-receipts charge on a cannabis business is structured to raise general revenue, not to cover the direct cost of regulating that specific business. That's exactly the profile of a "tax" under Prop 26 — it doesn't fit the regulatory-fee exception because the amount scales with revenue rather than with the cost of oversight.

This is why virtually every California city that taxes cannabis businesses (Sacramento, Oakland, Los Angeles, San Jose, etc.) has done so via a **ballot measure** — typically a

general tax capped at some rate (e.g., “up to 6% of gross receipts”), with the city council then setting the actual rate by ordinance within that voter-approved ceiling.

Sent from Yahoo Mail for iPhone



Alejandra Zambrano <azambrano@cityofsuttercreek.org>

Fwd: Additional Comments - Embarc DA includes a tax that needs a public vote

Tom Dubois <tdubois@cityofsuttercreek.org>
To: Alejandra Zambrano <azambrano@cityofsuttercreek.org>

Mon, Jul 13, 2026 at 4:22 PM

----- Forwarded message -----

From: **Brian Comnes**

Date: Mon, Jul 13, 2026 at 4:14 PM

Subject: Additional Comments - Embarc DA includes a tax that needs a public vote

To: Julia Sierk, Jim Swift, Dan Riordan

<driordan@cityofsuttercreek.org>, Claire Gunselman <cgunselman@cityofsuttercreek.org>, sfeist@cityofsuttercreek.org
<sfeist@cityofsuttercreek.org>, Tom Dubois <tdubois@cityofsuttercreek.org>, Derek Cole <dcole@colehuber.com>,
eventura@haugebrueck.com <eventura@haugebrueck.com>

Please add this message to the administrative record on the dispensary.

Councilors

A development agreement (DA) does not shield the city from the voter-approval requirement.

The core problem: “voluntary” doesn’t mean what it sounds like. Under Prop 26, a charge escapes the definition of “tax” only if it fits one of the seven listed exceptions. There’s no exception for “payment negotiated in a contract.” The argument cities try to make is that a DA payment is a bargained-for exchange — the operator agrees to pay in exchange for vested development rights, permit certainty, or specific entitlements — so it’s not really “imposed” on them the way a tax is. Courts and Prop 26 guidance are skeptical of that framing when:

- The payment is calculated as a percentage of gross revenue (which looks exactly like a tax, not a fee for a specific service).
- Applicant is required to agree to payment terms as a precondition of operating at all — i.e., it’s not really optional if there’s no realistic path to operate without it.
- The money goes to the general fund rather than covering the city’s actual cost of regulating that specific business (that’s the Sinclair Paint “regulatory fee” test — the fee must be roughly tied to cost of regulation, not scaled to revenue).

This largely turns on whether the payment is genuinely voluntary and negotiated at arm’s length, or whether it’s effectively imposed as a condition of doing business at all. A DA can shield mitigation-type payments (impact fees tied to development costs — road improvements, infrastructure) because those fit the “condition of property

development” exception baked into Article XIII C. But a revenue-share payment on ongoing dispensary sales isn’t a development-impact fee — it’s an ongoing operating tax dressed up in contract language, and that’s precisely the kind of thing Prop 26 was written to catch.

Practical reality: Many California cities *do* use DAs with cannabis operators to negotiate “community benefit” payments or revenue-sharing **alongside (not instead of)** a voter-approved cannabis business tax. That’s common and defensible. Using a DA as a substitute for going to the voters — i.e., the city’s only revenue mechanism from cannabis being a DA payment with no underlying voter-approved tax — is a riskier, less-tested move and has been the subject of taxpayer-group scrutiny and threatened litigation in a few California cities.

A successful legal challenge could force Sutter Creek to issue refunds and invalidate the payment structure going forward.

Please vote NO in your August meeting!

[Sent from Yahoo Mail for iPhone](#)



Alejandra Zambrano <azambrano@cityofsuttercreek.org>

Fwd: Comment on dispensary

Tom Dubois <tdubois@cityofsuttercreek.org>
To: Alejandra Zambrano <azambrano@cityofsuttercreek.org>

Fri, Jul 17, 2026 at 3:04 PM

for next council packet, public communication

----- Forwarded message -----

From: **Trish Sheets**

Date: Fri, Jul 17, 2026 at 2:55 PM

Subject: Comment on dispensary

To: tdubois@cityofsuttercreek.org <tdubois@cityofsuttercreek.org>, sgenselman@cityofsuttercreek.org <sgenselman@cityofsuttercreek.org>, jsierk@cityofsuttercreek.org <jsierk@cityofsuttercreek.org>, sfeist@cityofsuttercreek.org <sfeist@cityofsuttercreek.org>, driordan@cityofsuttercreek.org <driordan@cityofsuttercreek.org>, jswift@cityofsuttercreek.org <jswift@cityofsuttercreek.org>

Cc: Trish Sheets

Mayor & Members of Council:

I did a cursory search on the Internet on Embarc and located a 2024 article written by Craig Lazzeretti, a highly reliable and credible journalist with 40 years experience investigating, reporting, and editing local news in California; see attachment. In this news article it states that Embarc had argued strongly against Martinez City Council requirements to have 24/7 on-site security at their 3503 Alhambra location. Embarc objected to this requirement despite promising and not delivering it, in its 2020 permit application. It should be noted that this occurred after the Alhambra location had been robbed at gunpoint by three male suspects wearing masks.

During the Planning Commission special meeting on July 8th, Embarc Government Relations Manager Josh Lewis stated that Embarc is a "meaningful partner with law enforcement everywhere we operate" (YouTube timestamp 37:10). However, in 2024 Embarc opposed Martinez Police Chief Andrew White's position to have 24/7 on-site security in light of a rash of burglaries targeting cannabis dispensaries throughout the region and after an Oakland police officer was killed while responding to one such burglary on December 29, 2023. Furthermore, a suspect of a burglary at Velvet Cannabis in Martinez in August 2024 was killed by police and Embarc continued to oppose the City's request for 24/7 on-site security.

Co-Founder and CEO Lauren Carpenter stated that Embarc is a “responsible and compliant business” (Planning Commission special meeting July 8th televised on YouTube timestamp 1:57). Does being a meaningful partner with law enforcement, as Josh Lewis stated, mean that you oppose the chief of police on an issue that affects the safety of a community? Is not delivering on a promise of providing 24/7 on-site security at Embarc's Martinez location and later objecting to Chief of Police position on this issue after a slew of crimes were committed at dispensaries in the city including at Embarc responsible and compliant as Lauren Carpenter stated? The answers to these questions are clear based on factual historical data and are telling examples of how Embarc conducts business.

So the only real question I have after hearing all the many City and County residents speak opposing this dispensary over the past few months and based on what you now know about how Embarc has conducted themselves in another community, how can you possibly still consider going forward with this proposal?

Thank you for your attention,

Trish Sheets

 **Embarc Security.pdf**
9570K

Council Supports Retaining 24/7 Cannabis Dispensary Security Requirement Over Opposition from Local Retailer

Embarc objects to requirement despite promising, and not delivering, it in its 2020 permit application that was the subject of intense City Council debate; council also backs expanded buffer zone

CRAIG LAZZERETTI

JAN 21, 2024

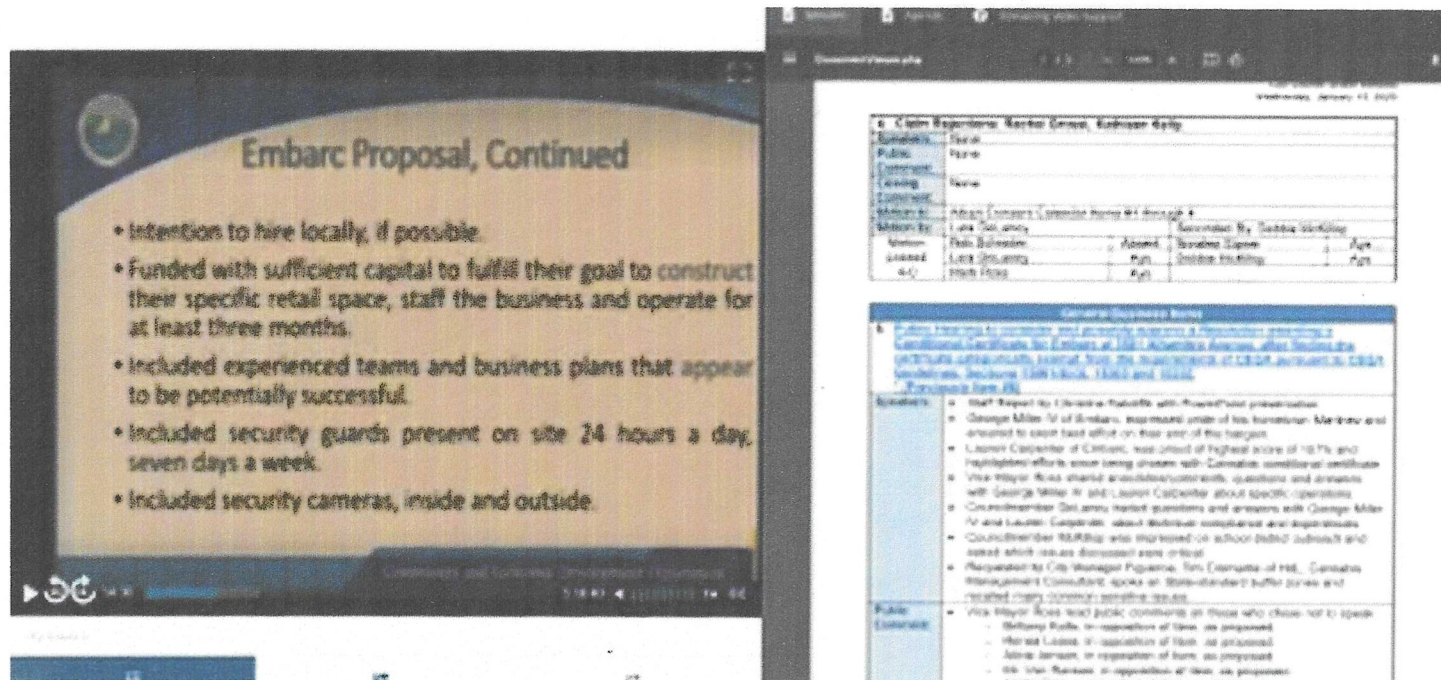
After showing initial ambivalence, the City Council voiced support at Wednesday's meeting for maintaining the requirement that the city's cannabis dispensaries provide 24/7 on-site security.

The council and staff engaged in a lengthy discussion about dispensary security as part of a wider-ranging agenda item that aims to update and modify the city's 5-year-old cannabis ordinance.

Council members discussed the issue of whether 24/7 on-site security deters criminal activity at dispensaries, such as occurred at Velvet Cannabis in August when a suspect was killed by police responding to a burglary call, and the risks posed to security officers who guard dispensaries overnight. Despite the current ordinance mandating 24/7 on-site security, the provision wasn't enforced or complied with until recently, and there were no security guards on site at the time of the Velvet incident. Police officials at the time unilaterally waived the requirement in approving the confidential security plans for both Velvet and Embarc, according to City Manager Michael Chandler.

Representatives from the Embarc dispensary on Alhambra Avenue argued strongly against the 24/7 on-site requirement Wednesday, saying that security guards are left as “sitting ducks” when protecting dispensaries overnight and that needed security can be achieved through other means.

But Embarc’s own permit application that the City Council approved during a heated meeting on Jan. 15, 2020, included a promise of 24/7 on-site security (see the screenshot below from the council presentation on that date), something it failed to deliver on until the city required it to following August’s fatal officer-involved shooting at Velvet. The 2020 presentation was delivered before a packed City Council chamber in which the clear majority of those who spoke during public comment, including the Martinez Unified School District superintendent at the time and two school board members, opposed the proposal to locate Embarc next door to Martinez Adult Education’s campus and within 1,000 feet of Alhambra High School. Of the 32 public comments reflected in the minutes of that night’s meeting on the Embarc proposal, 25 (including myself) were opposed to the council granting it a permit. Nevertheless, the council approved the application on a 3-0 vote (Mark Ross, Debbie McKillop and Lara DeLaney voted yes; Noralea Gipner abstained; and Mayor Rob Schroder recused himself from the matter because of a business conflict).



Screenshot of City Council presentation on Embarc's proposal to open a storefront on Jan. 15, 2020

Then-Community and Economic Development Director Christina Ratcliffe read the 24/7 on-site security provision aloud in presenting Embarc's proposal and called its overall security plan "excellent" that night, and it was one of the reasons that Embarc received the highest score from city staff among the five applicants for a storefront permit, despite its location in close proximity to city schools.

Despite Embarc's opposition, the council members on Wednesday deferred to police Chief Andrew White, who favored maintaining the around-the-clock, on-site security requirement in light of the rash of burglaries targeting cannabis dispensaries throughout the region; an Oakland police officer was killed responding to such a burglary call last month (Embarc officials actually argued at the 2020 public hearing that the presence of dispensaries in communities

reduced crime). He also pointed out that since Velvet and Embarc were both required to implement 24/7 on-site security, there have been no reported criminal incidents at either location.

Mayor Brianne Zorn advocated that the city should instead require roving security patrols that would inspect the dispensaries during non-business hours on a regular basis. Though other council members and Chief White seemed receptive to the idea, a majority of the council ultimately directed staff to update the ordinance with a continued requirement for 24/7 on-site security, albeit lowering the minimum staffing level from two to one.

Current state regulations require that security guards be present during a dispensary's business hours. City regulations prohibit security guards from being armed unless approved by the chief of police as part of the dispensaries' security plans; because of the confidential nature of these plans, White could not address Wednesday whether he granted such approval when he required Velvet and Embarc to comply with the 24/7 security requirement.

The ordinance update also is designed to give the police chief and city manager the flexibility to increase security requirements beyond minimum standards should they deem that circumstances warrant; such flexibility is currently lacking in current regulations.

"I'm adamant that remote monitoring is absolutely insufficient," White told the council in advocating for some sort of "floor" in the ordinance for around-the-clock in-person security coverage.

White pushed back on the argument that requiring security guards be on site overnight places the guards at unacceptable risk of harm. He said the police department advocates that guards

not be “hidden inside” the dispensary during non-business hours but rather should be a visible, mobile presence that will ideally help “to prevent a crime from occurring in the first place.”

“Should we have police officers subsidizing what is by (Embarc’s) own argument maybe a dangerous operation?” he asked, noting the examples an Embarc official gave during public comment of security guards being harmed or killed at other dispensaries. “I think the answer is security provides that middle ground. We’ll be there to support.”

He added that “there are very competent security companies out there than can respond accordingly based on crime trends and what threats they may or may not be facing.”

White acknowledged that other security upgrades centered on “facility hardening” can also play an important role in reducing criminal activity at dispensaries, noting that Embarc had invested significantly in such upgrades and had seen a reduction in criminal incidents at its business.

The council also expressed strong support for an expanded 1,000-foot buffer between dispensaries and schools and other sensitive facilities. The city currently complies with the state-mandated minimum buffer of 600 feet from schools, daycare facilities and youth facilities. Councilman Jay Howard added that he thought the 1,000-foot buffer also should apply to the Martinez adult school, which borders Embarc, saying he never understood why that location was approved for a dispensary in the first place.

The issue of the buffer size also was a significant topic of debate at the January 2020 council meeting to approve Embarc’s permit, as it was noted then that the city previously adhered to a 1,000-foot buffer for medical cannabis dispensaries before lowering the standard to 600 feet

when the commercial cannabis ordinance was crafted in 2019. If the 1,000-foot buffer had been maintained, Embarc would not have been able to open its business at 3501 Alhambra Ave.

City staff confirmed at Wednesday's meeting that Embarc is slightly less than 1,000 feet from Alhambra High School, a point that also was raised by the school district at the 2020 public hearing on Embarc's application.

In an email on Friday, City Manager Michael Chandler said "staff is evaluating the impacts of the 1,000-foot buffer regulation on Embarc (as well as the future uses of that space) and will present options to Council when this goes to public hearing."

There was also general support for other proposed modifications to the ordinance, including Diversity-Equity-Inclusion considerations for cannabis business applicants; billboard prohibitions; on-site consumption prohibitions; and requirements for the posting of on-site health information. Staff will next craft the proposed modifications into official regulations that will be the subject of a public hearing and vote by the City Council, anticipated to occur in February.

Mayra Lopez, a senior health policy specialist with Contra Costa County, spoke during public comment that cannabis use among youths has become "normalized" as cannabis businesses have grown rapidly in the years since California legalized recreational use. It is now perceived as a safer alternative to tobacco, "potentially impacting all of the progress that has been made to reduce youth use of illicit substances," she said.

Lopez also noted the particular appeals and dangers of flavored vaping and high-potency products, an issue Councilwoman Debbie McKillop also raised earlier in the discussion.

According to the Public Health Institute's "[Getting it Right from the Start](#)" [annual scorecard](#) of local jurisdictions' cannabis policies, Contra Costa County has banned flavored cannabis vaping products and restricted high-potency products, but Martinez has no such restrictions on those products, and is not currently proposing any in its ordinance modifications.

Citing the potential financial impacts on cannabis businesses of the changes the council is already considering, Zorn said she favored tabling any discussion of restricting the types of products dispensaries can sell for the time being and keeping the focus on the security issue and the other ordinance provisions suggested by city staff.

At the council's Dec. 20 meeting, Velvet's owner asked that the city modify the background check process that his employees are currently required to undergo, calling it "duplicative" and "laborious." But White said on Wednesday the background checks conducted by police are more comprehensive than the fingerprint-based state requirement and recommended that the council not remove the requirement, citing public safety concerns. He said he would work with the dispensary to try to streamline the process.

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In other news...

- Contra Costa Health issued a “progress report” last week on its unannounced inspection of PBF Energy’s Martinez refinery stemming from the refinery’s high volume of chemical releases and other incidents over the past year-plus. The report can be found at the following link (I did not notice any particularly noteworthy findings): <https://www.cchealth.org/home/showpublisheddocument/29319>
- Councilman Satinder Malhi mentioned two prominent retail closings in the city at Wednesday’s council meeting, the CVS store at Virginia Hills shopping center and the Rite Aid at Village Oaks, saying the city needs to be “very strategic” about trying to fill those vacancies.
- Following staff’s recommendation, the council approved a request by Discovery Builders to remove the requirement for a vehicular gate in the Laurel Knoll subdivision, deeming it infeasible. The matter landed in the council’s lap when Discovery appealed a Planning Commission vote that did not remove the gate requirement; it’s actually a quite more complex and technical matter and can be reviewed in the following staff report for those interested: https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2379126/Staff_Report_Laurel_Knoll_Change_of_Conditions_Appeal.pdf
- City Manager Michael Chandler proposed forming an ad-hoc subcommittee of the council to help further the process of opening Alhambra Hills (also known as Alhambra Highlands) to the public. The subcommittee idea is expected to come back to the council Feb. 7.

- Mayor Brianne Zorn floated the idea of the city creating a cultural commission to help prioritize and plan cultural-related events. Earlier in the evening, the city held a lengthy study session on its special event policy and planned events for 2024, with much of the discussion focusing on the pros and cons of the city sponsoring a Diversity Festival or multi-cultural themed event, and whether such an event would supplement or detract from other cultural-related events that it has helped to support, such as last year's Juneteenth and Pride celebrations. The council asked for a follow-up workshop to iron out the issues raised in Wednesday's study session.

Thank you for reading Martinez News and Views. This post is public so feel free to share it.