



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legislation Details (With Board Report)

File #: ORD 19-026 **Name:**
Type: Ordinance **Status:** Scheduled AM
File created: 9/20/2019 **In control:** Board of Supervisors
On agenda: 10/15/2019 **Final action:** 10/15/2019
Title: a. Introduce, waive reading, and consider an ordinance repealing Chapter 10.16 of Title 10 of the Monterey County Code relating to Produce Inspection - Head Lettuce. (Attachment 1); and
b. Set November 19, 2019, at 10:30 a.m. (consent agenda) as the date and time to consider adoption of the ordinance; and
c. Proposed California Environmental Quality Act (CEQA) action: Categorically exempt from environmental review pursuant to CEQA Guidelines California Code of Regulations Section 15309.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment 1 - Proposed Ordinance Repealing Chapter 10.16 of Monterey County Code, 3. Attachment 2 - GSA ltr dated 11-16-2018, 4. Attachment 3 - GSA ltr dated 03-22-2019, 5. Attachment 4 - AAC Minutes 03-28-2019, 6. Attachment 5 - Current Chapter 10.16, 7. Attachment 6 - Budget Committee Action Details, 8. Head Lettuce Inspection Presentation 2019, 9. Completed Board Order Item No. 15

Date	Ver.	Action By	Action	Result
10/15/2019	1	Board of Supervisors	approved - agricultural commissioner	Pass

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b. Set November 19, 2019, at 10:30 a.m. (consent agenda) as the date and time to consider adoption of the ordinance; and
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RECOMMENDATION:

It is recommended that the Board of Supervisors:

- Introduce, waive reading, and consider an ordinance repealing Chapter 10.16 of Title 10 of the Monterey County Code relating to Produce Inspection - Head Lettuce. (Attachment 1);
- Set November 19, 2019, at 10:30 a.m. (consent agenda) as the date and time to consider adoption of the ordinance; and,
- Proposed California Environmental Quality Act (CEQA) action: Categorically exempt from environmental review pursuant to CEQA Guidelines California Code of Regulations Section 15309.

SUMMARY:

On November 16, 2018, the Agricultural Commissioner's Office received a letter from the Grower-Shipper Association of Central California (GSA) requesting that the County repeal Chapter 10.16 of the Monterey County Code relating to produce inspection of head lettuce because the head lettuce inspection program no longer provided value to the industry (Attachment 2). On February 28, 2019, the Agricultural Commissioner met with industry representatives, and they reiterated their request to repeal Chapter 10.16. On March 22, 2019,

the Agricultural Commissioner received a revised letter from the GSA clarifying that the industry was requesting repeal of Chapter 10.16 in its entirety (Attachment 3). On March 28, 2019, the Agricultural Advisory Committee (AAC) considered the GSA request and voted to recommend repeal of Chapter 10.16 of the Monterey County Code (MCC) in its entirety to the Board of Supervisors. On May 30, 2019, the Agricultural Commissioner submitted the proposed ordinance repealing MCC Chapter 10.16 to the Budget Committee for review and direction. The Budget Committee suggested that the Office of the County Counsel review the ordinance and directed staff to meet again with industry representatives, after which the item should be brought to the Board of Supervisors. On August 26, 2019, staff again met with industry representatives, the GSA, and Supervisors Lopez and Alejo to discuss the proposed ordinance repealing MCC Chapter 10.16. Staff was directed to schedule the item before the Board of Supervisors for review and approval.

DISCUSSION:

MCC Chapter 10.16 was adopted in 1976 at the behest of the grower shipper industry to require uniform compliance with head lettuce standards in the California Code of Regulations (CCR). The Head Lettuce Inspection program began in 1976 as an industry-funded program. Head lettuce was inspected for uniform compliance and quality. The inspection program under MCC Chapter 10.16 is no longer necessary for several reasons. In 1994, at the height of the program, there were 38 Produce Inspectors employed by the Agricultural Commissioner to implement the program and 73,347 acres of head lettuce. Over time, the popularity of romaine lettuce has led to a decline in head lettuce production. In 2018, there were six produce inspectors and approximately 38,000 acres of head lettuce. Additionally, the inspection program under MCC Chapter 10.16 is no longer necessary because the grower and shipper industry's quality standards for head lettuce now exceed CCR standards. Lastly, notwithstanding the repeal of MCC Chapter 10.16, the Agricultural Commissioner will continue inspection of production of head lettuce to the extent agreed upon by contract with the California Department of Food and Agriculture. In 2019, the ten (10) vacant positions remain unfilled and the two (2) full-time positions remain on seasonal leave. Upon ordinance repeal, the two (2) remaining employees will be offered alternate positions in lieu of layoff.

AAC Recommendation: On March 28, 2019, the AAC reviewed and discussed the information received from the GSA in support of the GSA's request to repeal Chapter 10.16 of the Monterey County Code. Upon review and discussion of the information and written materials presented by the Agricultural Commissioner's Office and the GSA, the AAC voted to recommend repeal of Chapter 10.16. Produce Inspection - Head Lettuce of Title 10 of the MCC in its entirety to the Monterey County Board of Supervisors. Minutes from the AAC meeting on March 28, 2019, are attached (Attachment 4).

CEQA Action: Repeal of MCC Chapter 10.16 is categorically exempt from environmental review pursuant to CEQA Guidelines California Code of Regulations Section 15309 which states,

15309. INSPECTIONS Class 9 consists of activities limited entirely to inspections, to check for performance of an operation, or quality, health, or safety of a project, including related activities such as inspection for possible mislabeling, misrepresentation, or adulteration of products.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

OTHER AGENCY INVOLVEMENT:

The GSA and the AAC support this recommendation.

FINANCING:

The recommended action will eliminate ten (10) vacant and two (2) filled positions. The balance of the Produce Inspection (Fund 501.BSA 2684) will be returned to participants after FY 2019-20 costs are deducted. The estimated dollar amount of the Produce Inspection Fund to be returned to participants in FY 2019-20 is approximately \$200,000. The proposed action will negatively impact the Agricultural Commissioner's budget in FY 2019-20 and beyond. The program contributes to the administrative/overhead costs as well as shared costs of the department. Last fiscal year these costs were \$273,687 and were budgeted to be \$130,000 in FY 2019-20. The department will delay vehicle replacements and/or filling some vacant positions to meet Net County Contribution (NCC) in FY 2019-20. However, a general fund augmentation may be requested in FY 2020-21 for the overhead costs previously covered by the Lettuce Inspection Program.

The produce inspection program does not receive a General Fund Contribution. Therefore, the department's Maintenance of Effort (MOE) is not impacted by the repeal of MCC Chapter 10.16.

MCC Chapter 10.16 authorized the Board of Supervisors to adopt by resolution a schedule of fees to carry out the inspections under Chapter 10.16. With the repeal of Chapter 10.16, the Agricultural Commissioner will no longer collect those fees. Staff intends to return to the Board with a resolution (consent agenda) that would repeal those inspection fees.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by:

Kathleen Nielsen, Administrative Secretary-CNF, 759-7301

Approved by:

Henry S. Gonzales, Agricultural Commissioner, 759-7325

Attachments:

Board Report

1. [Proposed] Ordinance Repealing Chapter 10.16 of the Monterey County Code
2. GSA letter dated November 16, 2018
3. GSA letter dated March 22, 2019
4. AAC minutes from March 28, 2019
5. Current Chapter 10.16
6. Budget Committee Recommendations