

SPECIAL STUDY SESSION NOTES
CITY OF WHEAT RIDGE, COLORADO
City Council Chambers 7500 W. 29th Avenue

September 22, 2014

Upon adjournment from Regular City Council Meeting

Mayor Jay began the Special Study Session at 8:02 p.m.

Councilmembers present: Bud Starker, Zachary Urban, Kristi Davis, George Pond, Tim Fitzgerald, Jerry DiTullio, Genevieve Wooden.

Absent: Tracy Langworthy

Also present: City Clerk, Janelle Shaver; City Treasurer, Larry Schulz; City Manager, Patrick Goff; Community Development Director, Heather Geyer; Police Chief, Daniel Brennan; other staff, guests and interested citizens.

[At Mayor Jay's request sign-up sheets were available for those in attendance to sign and indicate if they were for or against marijuana in Wheat Ridge. The purpose: to measure public sentiment. It's unknown if everyone in attendance signed. A report of these sign-up sheets is attached.]

Mayor Jay explained the ground rules for the discussion on marijuana. Clerk Shaver flipped a coin, which determined that the "pro" marijuana speakers would go first for public comment – to be followed by the "con" speakers.

1. Marijuana Moratorium

STAFF PRESENTATIONS

Ken Johnstone presented the history of marijuana regulations in Wheat Ridge and an overview of existing regulations.

- Centers and stores are allowed in C-1 and I-E zones
- ¾ mile minimum separation between stores
- 1000 foot minimum separation requirement from schools, college campuses, daycares, and drug/alcohol rehab centers
- MIP's (manufacturers of Marijuana Infused Products) only allowed in I-E zones
 - ¼ mile minimum separation requirement between locations
 - Same 1000 foot minimum separations as for stores
- Cultivation only allowed when ancillary and contiguous to an attached MIP or retail store
- Testing facilities allowed only in I-E zones
- Primary caregivers and personal cultivation only allowed as an accessory use to a permitted residential use - subject to additional rules that are similar to home occupation regulations

Additional Regulatory Options that could be implemented by City Council:

Special Use Permits

- May or may not be allowed based on 1) justification of needs, or 2) special design and operational considerations to mitigate any potential impacts on surrounding land uses, the street and other public services
- The SUP process begins administratively. It includes 2 public notification processes and an opportunity for written objections. If written objections are received a City Council public hearing would be scheduled. If no written objections are received it is approved administratively. The current SUP process has 8 review criteria

Additional separations requirements

- Possible to add more uses from which marijuana establishments must be separated, such as parks and residential areas
- This was given some consideration during initial ordinance adoption
- Would need to review additional maps to determine how extensive the impact would be of imposing those restrictions

Limitations on the maximum size of marijuana establishments to ensure compatibility

Building Code Modifications

- Pending ICC codes to include additional requirements pertaining to safety aspects of cultivation facilities and the manufacturing processes
- Possible to include mechanical requirements designed to better address the odors associated with MIPs and cultivation

Outright ban on marijuana establishments -- either by ordinance or by referring a question to the voters

The temporary moratorium expires Nov. 16, 2014. An extension by regular ordinance would require 2 readings. Additional study sessions are scheduled for Oct 13 or 20. 1st reading would have to be on Oct 27, with the public hearing on Nov 10.

Modification of Chapter 26 requires a recommendation from Planning Commission.

Chief Daniel Brennan gave a presentation on the impact of marijuana sales in Wheat Ridge from a law enforcement perspective. Data includes a breakdown on calls for service (CFS) from 2009 to 2014, starting with one facility in 2009 and now six facilities.

Major points regarding Calls for Service:

- Alarms are the biggest CFS. One in 2009 up to 60 so far in 2014.
- To date we've had 5 burglaries, 3 disturbances, 1 juv trouble, 13 suspicious incidents/vehicles/persons
- Alarm Calls: 70% of all CFS to all marijuana facilities have been alarms. Two locations have produced almost 70% of all CFS to marijuana facilities – most of which are alarm calls
- The Juvenile Trouble call was kids outside a dispensary trying to get someone to buy marijuana for them
- 5 Burglaries at marijuana facilities since 2009

- Two Aggravated Robberies (2010 and 2014): customers leaving with marijuana being robbed at gunpoint

Driving behaviors: 150-200 DUI arrests per year in the last two years

- About 4% of DUI arrests have been Marij/DUID(drug) arrests
- A continuing rise in this trend is anticipated based on national reporting.
- Fatalities are down in CO, but DUID incidents are up.
- It's an area of focus for WRPD patrol officers for extra training as an increase is expected; will monitor

Other points related to Calls for Service:

- 98% of Alarm calls result in no incident.
- The State and Medical Enforcement Division require extensive security systems so the number of alarm calls is not unusual

West Metro Drug Task Force is monitoring marijuana related grows (business and home) and hash oil. WRPD officers occasionally accompany on these calls.

Juveniles and drugs in WR schools – (Does not include marijuana incidents handled administratively by the schools)

- Since 2010-11 there have been 255 juvenile alcohol/drug related arrests in the schools.
- 93% are for marijuana and paraphernalia (53% marijuana; 40% paraphernalia); only 5% are for alcohol.
- That year 54% of offenses at WRHS; 32% at Everitt. (69% during 2nd semester)
- Arrests have declined since then, but last year 4 cases involved more serious cases of distribution that they hadn't seen before.
- Last year arrests doubled for 12-13 year olds, decreased for 17 year olds.
- Last year 4 elementary students arrested for bringing edibles into schools (3 Pennington, 1 Stevens) (First time for that.)
- This school year, as of Sept 14, there's already been 15 students arrested for drug related offenses (13 WRHS, 2 WR5-8).

Summary conclusions

- PD sees an upward trend in CFS at marijuana facilities. Most not crime related, but needs to be tracked.
- Alarm call numbers at marijuana facilities are similar to what we see with liquor stores and convenience stores at this time, but needs to be tracked.
- Increase in middle and elementary school marijuana arrests is troubling; he believes prevention and education are the best positive steps
- Further study is needed to determine positive/negative consequences of marijuana legalization in WR

From Council questions:

- The State regulates the number of plants for businesses and home grows.
- In Wheat Ridge 25% of total sq footage of a house is allowed for growing marijuana.
- In the coming weeks Council will have the opportunity to look at adopting regulatory codes of the State Medical Enforcement Division so that our police can enforce them.
- Other jurisdictions and school districts are seeing the same things we are.
- Data from administrative processes by schools should be analyzed along with police data.
- Information about impacts on the community in general is available from the West Metro Drug Task Force.
- Heroin use is on the rise.
- Per Councilmember DiTullio School Resource Officers are always involved with drug incidents at WRHS because they are allowed to do the searches.

Mayor Jay read the plan for the rest of the meeting.

PUBLIC COMMENT

Public Comment (FOR) – 10 minutes

Sandy Beddor (no address), one of the owners of Chronic Therapy, is proud to be creating living-wage jobs and working in a highly regulated industry. She loves helping people with their pain management and providing marijuana for adults in a safe way. Her son manages his seizures with marijuana. It's a family owned and operated business. She submitted a large petition with signatures of patrons who support the marijuana industry. *[Report on petitions attached]*

Aaron Walker (St. Gabriel, Louisiana) is a wounded marine. He said marijuana has made his PTSD bearable. It's safe and practical.

Adam Foster (no address) from Chronic Therapy pointed out that Council cannot outlaw existing businesses.

TJ Christensen (no address) owns a heating and cooling business. He supports the marijuana businesses. They create other jobs in the community, pull permits, pay well, and follow code.

Nick Dice (no address), owner of a WR marijuana shop for 2 years, noted it is the most scrutinized industry. Marijuana vendors care about the community and he hopes for good working relations between the shops, the citizens, and the City. He asked for consideration for existing shops. He said the State requirement for heat sensors is the reason for all the alarm calls. The technology on that hasn't caught up yet.

John Dileau (no address), retired Jeffco deputy sheriff and national sales director for Blue Line Protection Group, said they provide secure transportation for marijuana. It is a lawful and transparent industry. Their clients are responsible business owners.

Kris Hartman (Littleton) owns a small electric company that does work for Chronic Therapy. He testified to their good character. He believes the responsibility is with parenting and personal decisions – not running out responsible business owners.

Cassandra Dittus (no address) is the manager of Nick Dice's store and a 7-year cancer survivor. She said the people who come in are your neighbors. It's like buying a bottle of wine.

Public Comment (AGAINST) – 10 minutes

Carol Salzman (WR), VP of Lutheran Hospital, said they see over 80 children annually for substance abuse – 22 months old to teens. Neighboring cities have chosen to have stronger laws and she challenged Council to do the same for WR.

Ron Castagna (Centennial), Lakewood HS principal for 17 years, said principals do search lockers; their burden of proof is less than police. He held up a clear package of marijuana candy that looks like regular candy. It's ruining kids' lives. He believes voters are changing their minds. He referenced improper business practices and charged it is a cash business for a reason. As an educator he doesn't want drug money.

Roger Morin (WR) is against a marijuana shop at 38th & Miller. He's concerned about public safety hazards: vandalism, public drug abuse, theft, increased accidents, and inadvertent consumption of edibles. For children he sees increased anxiety and the formation of a positive attitude on the use of marijuana. He asked Council for 1) a permanent moratorium, 2) publish the rationale (risks) for the 1000ft school buffer, and 3) go on the record with the benefits you see of marijuana establishments vs the risks.

Jennifer Yates (WR) said it's clear from tonight's turnout that marijuana is a big deal. Supporting the industry sends a message to kids that use is acceptable and encouraged behavior. She agreed parents are responsible, but the community has an obligation too. We should reduce social harms wherever possible.

Jennifer Shepherd (WR) asked for a permanent moratorium on all new marijuana businesses and expansion of existing facilities. She asked for a show of hands in the audience from those who support a permanent moratorium.

Rona Burrows (WR) has concerns about 38th & Miller. Nighttime police responses (4/night) as a gas station will be more when its pot. She fears the neighborhood will become a target for theft by people who need money for pot. Lack of access to dope is a deterrent; easy access is not a deterrent. There are already enough stores.

A five minute break was taken from the proceedings.

SPECIAL PRESENTATIONS

AGAINST -- 20 minutes

Bob Doyle, chair of SAM (Smart Approaches to Marijuana), presented. He addressed addiction, the tobacco industry's involvement with marijuana, the commercialization that started with medical marijuana, increased teen usage, and the decrease in support by Colorado voters since Amendment 64.

Over 90% of money for Am 64 came from out of state. Why were there no ads about pot shops, gummy bears, cupcakes, and soda? Support is down 17% since 2012 as people realize the difference between decriminalization and commercialization.

The harmful effects to the youth include: a lowered perception of harm, loss of IQ, effects on memory and attention, increased psychosis, anxiety and depression, changes in 2 key brain regions. Teen who use regularly are 60% less likely to graduate, 18 times more likely to become dependent on the drug, 7 times more likely to attempt suicide, 8 times more likely to use other illicit drugs later in life. 40 % of young users show signs of addiction. Daily college smoking of marijuana is at a 30-year high. School incidents are higher.

Most Colorado marijuana (70%) is sold to daily users. 1 in 5 users are using 26 times a month or more.

Regulation does NOT protect our kids. Denver's 8th grade marijuana use rate is almost 3 times the national average. Marijuana related emergency room visits are up 57% since 2011. Illegal shipments are up almost 400%. Hash oil explosions are up in the state. Poisonings of youth are up in states with medical marijuana. Arapahoe House has seen a 66% increase in teen marijuana admissions in last 3 years.

Quest Diagnostics reports Colorado workers are up 20% in drug tests. (The national average is only up 6%.) Marijuana is more powerful and potent than it used to be – more potent than cartel marijuana. It used to be 3-4 % THC; now it's 20-30%. Vaporized marijuana can be 60-80% THC. Hash oil is very potent and the high lasts 5 hours.

Marijuana vaporizing is way ahead of tobacco vaporizing. Medical marijuana vaping is being marketed in a very commercial, non-medical way. The added danger is that it's so discreet people can smoke it anywhere. There is a growing youth vapor problem.

There are 200 different types of edibles which are said to not be targeting children, but they are. He passed around examples of marijuana candy from Wheat Ridge stores.

Auto fatalities are down in Colorado, but THC auto fatalities are up. There are fewer opiate overdoses in our state, but states with medical marijuana have rates that are higher.

Council's decision isn't about social justice, home use or the law. It's about whether or not we want to commercialize and promote the product in our community.

FOR – 20 minutes

Michael Elliott ~ Executive Director of the Marijuana Trade Association and a member of the Jefferson County Task Force on Marijuana, gave the councilmembers copies of the Jefferson County Marijuana Drug Task Force Report. He noted that the real report is the first 10 pages of the 90 page document.

Highlights of his talk:

- The trade association is a 501 (c) 6
- There are 500 pages of state regulations dealing with the licensing of marijuana businesses. Recently there are 70 pages of new regulations for edibles. High potency edibles are being banned.
- Ownership requirements: 2 years residency, background check, financial disclosure
- Question for City Council is "Who do you want selling it? Organized crime or licensed, regulated, controlled, secure, accountable, taxed businesses?"
- These businesses are part of your community and want to make this program work.
- An example of the industry's willingness to help make this work was their endorsement and financial support last year for Prop AA – a special tax on marijuana to provide funds for administration, enforcement, and education.
- There is more testing for potency and other aspects (mold, bacteria, etc.)
- Security: alarms, mandatory video surveillance
- High level tracking systems are in place: Sales are videotaped; transport is accountable and scrutinized. Businesses are shut down.
- Data in Drug Report indicates teen marijuana use is down. The variable is enforcement. Enforcement is up. That doesn't mean use is up; it's just getting enforced more
- The Colorado Dept. of Transportation reports a massive decrease in highway fatalities and fewer drunk drivers
- Crime data: A number of crime stats are down (homicide and sexual assaults)
- Increase in regulation. Increase in tourism and jobs. Real estate and construction numbers are good,
- Banning marijuana businesses isn't going to solve all the problems with drugs.
- The black market is not a good way to have marijuana sold.
- The industry cares about the community.
- He personally is not sympathetic to sign flippers and marijuana clubs.

Council questions

Councilmember Wooden asked Mr. Elliott if there is any harm to users of marijuana. He said it is not good to drive while high and it's not good for kids. Councilmember Wooden asked if it isn't for children, why is it in gummy bears and products that appeal to children? Mr. Elliott said it's because adults like gummy bears and they are very profitable. Packaging is still being debated.

Discussion followed.

Councilmember DiTullio received consensus to extend the current emergency moratorium for 90 days by ordinance for a non-emergency moratorium to allow for 1st and 2nd reading.

Councilmember DiTullio asked for consensus to have staff draft an ordinance which disallows marijuana vending machines. Discussion revealed that they would only be allowed in licensed facilities anyway so this was deemed not immediately necessary. Staff will look into it.

Councilmember Starker asked for consensus to have staff look through the new state regulations for marijuana to see what regulations we might adopt so that we would have enforcement power for a list of banned practices.

Mr. Dahl instructed Council about the scope of its authority regarding grandfathering and closing down existing marijuana facilities. The Council may choose to grandfather existing facilities. Also, contrary to what an advocate said earlier, per case law and due to timelines in the law the City Council absolutely does have the legal authority to prohibit marijuana sales and close down existing marijuana facilities.

After discussion there was further agreement to discuss the following options at a future Study Session:

- Implementation of a Special Use Permit process
- Locally adopting selected portions of the state regulations to enable local enforcement
- Review the map again
- Look at extending the separation limit

ADJOURNMENT

The Study Session adjourned at 10:42 p.m.



Janelle Shaver, City Clerk

Sign Up Sheets
9/22/2014 Study Session

In anticipation of a large attendance, Mayor Jay requested a sign-up sheet for those who attended this meeting to ascertain the level of sentiment for and against marijuana.

<u>For Marijuana</u>					
		WR			
Total Names	Email Only	Resident	Other		
31	16	8	7	----->	Lakewood 2
					Edgewater 1
					Arvada 1
					Denver 1
					Aurora 1
					Louisiana 1

<u>Against Marijuana</u>					
		WR			
Total Names	Email Only	Resident	Other		
131	8	121	2	----->	Centennial 1
					Arvada 1

<u>No Side</u>			
		WR	
Total Names	Email Only	Resident	Other
2	0	2	0

Total Sign ins 164

**Petitions Submitted at
9/22/2014 Study Session**

<u>Chronic Therapy</u>		
210 names	<u>Illegible</u>	<u>OK</u>
Printed names	40	170
Signatures	175	35
<u>Out of state/country 25</u>		
18--unknown ("Yes")		
1 each--LA, FL, CA, Seattle, Dallas, Canada		
1*=yes CO and, yes Out of State		
<u>Cities</u>	(CO residents)	
WR	34	184
LW	26	+ 25
Arv	7	209
Golden	3	*1
Morrison	2	210
Erie	1	
Aurora	1	
Littleton	2	
Other	108	
Total	184	

<u>Best Colorado Meds</u>		
183 names	<u>Illegible</u>	<u>OK</u>
Printed	61	122
Signatures*	136	46
<u>Out of state/country 11</u>		
10-unknown ("Yes")		
1-NY		
<u>Cities</u>	(CO residents)	
WR		46
Arv		4
Golden		2
LW		1
Highlands Ranch		1
Westminster		1
Broomfield		1
Jeffco		3
Other		<u>11</u>
	Total	171
	out	11
		182 *
	*1 no WR, no CO	+1
	no OOS, no sig	183