

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

December 1, 2014

Mayor Jay called the Study Session to order at 6:30 p.m.

Council members present: Bud Starker, Zachary Urban, Tracy Langworthy, Tim Fitzgerald, George Pond, Genevieve Wooden, and Jerry DiTullio*

Absent: Kristi Davis

Also present: City Clerk, Janelle Shaver; City Attorney, Jerry Dahl; Carmen Beery, from the City Attorney's staff; Community Development Director, Ken Johnstone; Planner, Lauren Mikulak; Police Chief Daniel Brennan; Treasurer, Larry Schulz; interested citizens

PUBLIC COMMENT ON AGENDA ITEMS

A time limit of 15 minutes per "side" was announced by the mayor.

Per coin toss, citizens concerned about an increase in the number of marijuana stores in Wheat Ridge spoke first.

Rebecca van Vliet (WR) an advanced practice nurse at Lutheran and mother of two believes the marijuana industry has gone beyond de-criminalization and now targets children in its advertising. She listed ill effects of marijuana and told Council they have a responsibility to the children of Wheat Ridge to limit the spread of the marijuana industry in our community.

Connie McCoy (WR) urged Council to enact a permanent moratorium on any more marijuana shops and to ban edibles. We need to return to having a wholesome, healthy City – not a marijuana city. Marijuana is unhealthy, will hurt economic growth and it's giving our City a bad reputation. Council put 2A and 2B on the ballot, but not marijuana.

Roger Morin (WR) had submitted a report to Council on Wheat Ridge's marijuana demand and requested that it be included as an exhibit to the Study Session. The existing operations in Wheat Ridge would produce 10,500 pounds of marijuana – 600% more than is needed by our residents who consume marijuana, not counting the import of edibles and plant stock. The math indicates our City only needs one store.

Clayton Trapp (WR), a 1977 WRHS grad, is dismayed at Council. He asked why the Council did not get any citizen input before allowing pot stores in WR – when Golden, Arvada and Lakewood have all turned down pot. He charged Council has circumvented the voices of the people who put them in office, and spoke of recalling councilmembers and the referendum process.

Kelly Brooks (WR) asked that the dialog on marijuana continue. There is growing evidence that the commercialization of marijuana is not what people wanted – including 7 more cities that had voted for Amendment 64 and now just voted in November to keep it out of their cities. He's concerned about the cultural shift in the societal perception of

an addictive, psycho-active and detrimental drug. Through commercialization and normalization we are helping desensitize entire generations while proof of its dangers mount.

Mary Fedje (WR) said the City is putting in place 5 drug dealers who will pool their resources, hire expensive attorneys and be able to do whatever they want. She encouraged Council to take this opportunity to put restrictions on this industry – save our City from them owning it.

Speakers in support of the marijuana sales in Wheat Ridge followed.

Kevin Iden (WR) thinks we should be more concerned about the number of massage parlors in WR than the marijuana stores. Options and The Ridge are small family businesses – not conglomerates. He thinks folks who use marijuana are much better off than when they were getting drugs from the Jefferson Center for Mental Health. ~ As a former teacher he believes alcohol is a much worse problem for kids. ~ He thinks it is ridiculous to be against something that helps so many veterans who have limited funds and don't have to run to Denver. He's had great conversations waiting in the long lines at Options. No violence. It really helps the people with disabilities. We keep alcohol and pornography away from kids; we can keep marijuana away from kids.

Samantha Walsh (Arvada), a representative of Options, asked for a show of hands from people who support Options. She said it's a family owned business that gives back to the community. They pay taxes and adhere to strict regulations. Their profit goes to health care and other benefits for their employees. It's a quiet, energy-efficient business that doesn't advertise. ~ There have been many positive effects since Amendment 64 passed. Crime rates and DUI fatalities have gone down. In cities that have opted in to marijuana teen use has gone down. The industry has worked with the state to fund education about edibles and taken steps to minimizing the dose to 10 mg.

Amelia Armstrong (Lakewood) spoke to the character of Sandy and Greg. She spoke emotionally about leaving her family and moving to Colorado because she has a brain tumor. Sandy has been very helpful to her and they genuinely care about her health. ~ Her boyfriend, **Alan Schmidt**, added they have been a godsend working with her to find the right strains and extracts that will help her. He said demonization of the owners as drug dealers is misplaced.

Austin Dardano (WR) said there have been plenty of drugs and marijuana in the City long before it was legalized. He's observed a decrease in other drugs since the dispensaries opened. He hasn't seen minors with marijuana edibles; he believes they're for older folks and people who can't smoke. He doesn't think kids are attracted to edibles; they just want to smoke and get high and hang out with friends. These businesses are not causing trouble. They create revenue.

Jessica Jackson (Golden) comes to Wheat Ridge to buy medicine because Golden doesn't have it. She uses marijuana for medical relief for her fibromyalgia – not for getting high. When she comes here she does other shopping in WR too.

APPROVAL OF AGENDA

1. Staff Report(s) none
2. Elected Officials' Report(s)

Councilmember Langworthy reported the WR Housing Authority has their last property going to bids for upgrades. It's off 44th Pl. near the new Hopper Hollow Park.

3. Marijuana Moratorium ~ Carmen beery, Ken Johnstone, Lauren Mikulak

Ken Johnstone opened the discussion with a review of the timeline to date. He said staff and the attorneys have made a collaborative effort to reflect the policy direction Council intended.

Carmen Beery, attorney in Jerry Dahl's office, went through the executive summary explaining the provisions in the new ordinance. Seven major policy issues are addressed.

1. Numerical cap

Establish a numerical cap on the number of establishments consistent with the number of currently existing or pending establishments:

- 5 total "store fronts" (retail, medical and co-located establishments)
- 3 manufacturing facilities (retail, medical and co-located)
- Establish a "first in time" rule for processing applications if a spot become available

2. Special Use Permit requirement

Designate store fronts (where people come in and buy) as Special Uses in the C-1 zone district.

- The existing Special Use process would be used, which requires neighborhood meetings, posting, etc.
- This is an administrative process unless a written objection is filed, in which case it becomes a public hearing process before City Council.
- There are two particular provisions that will be unique to marijuana Special Use permits:
 - The dormancy period is shortened from one year to six months to trigger the requirement of a brand new application.
 - The Special Use cannot automatically transfer with the land; any proposed transfer will undergo administrative review by the City.

3. Cultivation activities limited to 5,000 sq ft total.

Ms. Beery reminded Council that under current code cultivation operations must be contiguous to the same licensee's store or manufacturing facility. No stand-alone grow operations are allowed.

4. Separation requirements

- Add a 1,000 foot separation requirement for marijuana centers from the Rec Center and improved city parks where children and families might frequent. This does not include open space and the greenbelt.
 - Current separation requirements that apply for schools, day cares, and alcohol/drug treatment facilities will remain.
 - Amend the method of distance measurement to direct aerial measurement (“as the crow flies”) instead of the direct pedestrian route, and measure from property line to property line.
5. Co-location
- Allow one kind of license to add the other type of license (retail or medical) even if it becomes a legal non-conforming use. Rationale: The land use and impact is the same. Legal non-conforming uses cannot expand or modify their site and maintain their legal, non-conforming status.
6. Signage
- Incorporate certain state regulations into our Code so the City can enforce it and not have to contact the state. This includes regulations on signage and advertisement via radio, the internet and print – anything that is visible to the public.
 - Things like billboards, leaflets, sign twirlers, and mobile signs on cars would be prohibited.
 - Prohibition of signage that appeals to minors or is false or misleading
 - Additional regulations for our Code include:
 - Prohibit signs that depict images of a marijuana leaf
 - Restrict the size of the green cross graphic to an area 2 ft x 2 ft
 - WR would not be the only City adopting these state regulations.
 - Sign application required to be submitted with business application
7. Building Code clean-up
- Amendments to the International Building Code (recently adopted) made concessions to allow for manufacturing activities and hash oil extraction involving water and non-combustible, solvent based extraction methods. One section of the International Mechanical Code was overlooked; this ordinance will make all our International Codes consistent on the topic.
- Ms. Beery spoke briefly on some policy issues not addressed in the Ordinance.
- Packaging: State regulations on packaging continue to evolve. Staff felt the City doesn't have the time, availability or expertise to apply technical state regulations and stay current with them as they change.
 - Establishing one type of City license for both retail and medical manufacturing activity: The state continues to require two separate licenses; the industry is used to getting two separate licenses; staff doesn't think requiring separate City business licenses is burdensome. Additionally, if the goal is having a simple administrative process to allow an established premise to add either retail or medical marijuana to its existing operation, staff feels that is accomplished with the

proposed language that allows colocation even when the original location is legal nonconforming.

Ken Johnstone distributed the two new maps and gave explanation.

Council comments and opinions followed. Staff answered questions as needed.

Councilmember Fitzgerald noted that while measuring "as the crow flies" is more practical, it effectively doubles the distance for separation. Mr. Johnstone agreed and said it's a policy issue. Mr. Fitzgerald asked Council to readjust the limit in distance to compensate for that.

Councilmember Wooden confirmed with staff that if the proposed park buffers are adopted a marijuana facility will not be possible at 38th and Miller.

There was discussion about changing the method of measurement as a policy change, including the creation of legal non-conforming uses and whether those businesses could be transferred.

Councilmember DiTullio arrived at 7:37.

Councilmember Wooden challenged the additional policy change Number 3 (colocation of retail and medical manufacturing activity through administrative review). She believes this was not a directive from Council, was added to accommodate one business, and would like to see it approved separately.

As a practical matter, Councilmember Wooden also asked that Council be notified of any application, license review or other changes that come in; it is frustrating when citizens call and councilmembers don't even know what's going on.

There followed lengthy discussion on Council notification, the maps, the Special Use process, colocation for legal non-conforming facilities and separating the vote on colocation of legal, non-conforming facilities.

It was noted that testing facilities are not included in the new provisions.

A number of consensus votes were requested but discussion prevailed.

During the discussion staff made the following clarifications:

- In practice, the City regulates retail and medical marijuana in the same way.
- Retail (recreational) and medical storefronts can be co-located.
- MIP activity for retail (recreational) and medical products can be co-located.
- MIPs and storefronts are both allowed in I-E zones.
- The State requires separate licenses for medical and retail.

Following thorough discussion by all and various proposals for wording

Councilmember Pond received consensus to do the following:

Move forward with the Code amendments that have been drafted, with the exception of the administrative process to allow established premises to add either medical or retail to existing operations as outlined in Number 3 of the additional policy changes.

Councilmember Urban cautioned against allowing retail establishment to advertise with a green cross as it sends a false message. Disallowing that would also reduce the impact on the community.

During discussion staff clarified further that:

- Retail storefronts don't have to be co-located with a medical establishment anymore.
- State statues provide that MIPs cannot have a storefront as part of their operation.
- In state statues recreational marijuana is referred to as "retail".

Following further discussion regarding the co-location of retail and medical sales licenses as related to MPI's and storefronts Councilmember DiTullio received consensus to bring the colocation piece forward as a separate ordinance.

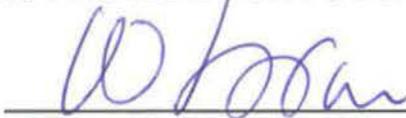
ADJOURNMENT

The Study Session adjourned at 8:36 p.m.



Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL



William "Bud" Starker, Mayor Pro tem

The preceding Minutes were prepared according to §47 of Robert's Rules of Order, i.e. they contain a record of what was *done* at the meeting, not what was *said* by the members. Recordings of the study sessions are available for listening in the City Clerk's Office, as well as copies of Ordinances and Resolutions.