

JUNE 2, 2015

**CITY OF GUNNISON COUNCIL
SPECIAL SESSION MEETING MINUTES**

7:00 P.M.

The City Council Special Session meeting was called to order at 7:00 P.M., by Mayor Hagan with Councilors Ferguson, Drexel, Morrison and Schwartz present along with City Manager Coleman, City Clerk Davidson, Police Chief Robinson, Finance Director Cowan, Community Development Director Westbay, many citizens and the press. A Council quorum was present. The Special Session meeting was set by motion and affirmative Council vote at the May 26, 2015, Regular Session meeting.

JUNE 2, 2015

PUBLIC HEARING

7:00 P.M.

Receive input on the merits of Ordinance No. 5, Series 2015, amending Title 3 Finance, Title 8 Business Regulation, and Title 14 Technical Codes, of the *City of Gunnison Municipal Code*, and amendments to Section 2 - Zoning Districts, and Section 3 - Specific Use Regulations, of the *City of Gunnison Land Development Code*, establishing rules, standards and policies for the taxation, licensing and regulating the retail sale, cultivation, manufacturing and testing of marijuana and marijuana products in the City of Gunnison

Mayor Hagan opened the Public Hearing at 7:00 P.M. and stated for the record that it is Tuesday, June 2, 2015, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, Colorado. Present at the public hearing are Mayor Richard Hagan, City Councilors Stu Ferguson, Robert Drexel, Leia Morrison, and Matt Schwartz, City Manager Ken Coleman, City Clerk Gail Davidson, Community Development Director Steve Westbay, Police Chief Keith Robinson and Finance Director Ben Cowan.

The purpose of this Public Hearing is to receive input on the merits of Ordinance No. 5, Series 2015, amending Title 3 Finance, Title 8 Business Regulation, and Title 14 Technical Codes, of the *City of Gunnison Municipal Code*, and amendments to Section 2 - Zoning Districts, and Section 3 - Specific Use Regulations, of the *City of Gunnison Land Development Code*, establishing rules, standards and policies for the taxation, licensing and regulating the retail sale, cultivation, manufacturing and testing of marijuana and marijuana products in the City of Gunnison.

Mayor Hagan called for Proof of Publication. City Clerk Davidson responded she has the affidavit or publication and a copy of the legal notice is included in Council packets and the official record of the hearing.

Mayor Hagan then called for City Staff Comments and Recommendations. Community Development Director Steve Westbay addressed Council. Director Westbay stated the following items: the regulation ordinance is a unique process as it changes both the Gunnison Municipal Code (GMC) and the Land Development Code (LDC); the change to the LDC is a text amendment that was initiated by him as the Community Development Director applicant; the Planning and Zoning Commission discussed the proposed amendments and held a public hearing on the LDC provisions that would be amended and have made a recommendation to Council; Director Westbay reviewed the City Council moratoriums and Election processes that have taken place to date regarding marijuana facilities in the City of Gunnison; the State of Colorado has two statutory components for marijuana facilities, one for medical marijuana and one for retail also known as recreational marijuana facilities; the Planning Commission started in December 2014 and held 6 meetings and showed due diligence in developing the LDC regulations; the Planning Commission bases their decisions on maintaining the health, welfare and safety of the citizens; they reviewed 29 different marijuana regulation codes and spent a lot of time on the development because they wanted to do it right; the LDC provisions include location standards, those being the 1000 foot buffers between marijuana facilities and schools, daycares, the university, and mental health facilities and buffers between residential districts and marijuana facilities so that they are not adjacent; co-occupancy of marijuana facilities and other business presented a multitude of issues; airflows and HVAC systems were discussed and the final recommendation from the Planning Commission is to allow co-tenancy on individual cases based on filtration systems and control of air flow migration between the tenants; wastewater discharge was examined to prevent the discharge of hazardous materials into the City's wastewater stream through the Wastewater Treatment Plant; the City regulates the discharge for many types of businesses including car repair shops, manufacturing businesses, car washes, and Western State Colorado University, so the City is not singling out marijuana businesses with these regulations; the discharge of large amounts of nitrates and phosphates is regulated by the Colorado Department of Health and Environment (CDHE) in an effort to control eutrophication or excessive plant growth in the state's rivers and waterways that depletes the oxygen in the water and kills aquatic plants and animals; the recent CDHE Rule 85 sets limits of phosphates and nitrates discharge and if the amounts are exceeded it

would jeopardize the City's wastewater plant discharge permits; the daily loading factor for nitrogen is set at 0.035 lbs. and phosphate at 0.015 lbs. the same as what a single-family residence would generate; if the levels are exceeded by a business then they would have to install a pre-treatment system on the discharge before it enters into the City's wastewater stream.

Director Westbay continued and addressed the contents of the Ordinance. Those contents are: taxation section stating a 5% sales tax on products sold in the City and a 5% excise tax on marijuana products exported for sale outside the City be collected ; business regulations for the licensing of marijuana facilities; the City regulations streamline the application process and utilize the same forms required by the State application process; applications are obtained and submitted to the City Clerk, inspections and review will take place by the Community Development Department, the Police Department and the Public Works Department if applicable, a public hearing will be held to hear public testimony and determine the findings of fact on the application by City Council prior to licensing; business regulations regarding revocation and suspension are outlined in the ordinance; modifications to Chapter 14 Technical Codes are included to address fire, electric, plumbing, mechanical and building standards to be met and the types of occupancies are allowed by the code; retail licenses are mercantile uses, cultivation, manufacturing and testing are industrial in nature; industrial-type uses may require review and permitting for types of equipment being utilized; inspections for chemical discharges may be required including testing by licensed engineers and laboratories; the use of chemicals and gases in cultivation businesses may be prohibited or require additional safety measures; in-line filtration systems may be required by the mechanical code to guarantee air quality for adjacent businesses or outside air quality; the LDC Principal Use Table allows for retail in certain areas as a conditional use; product manufacturing may require equipment inspection for safety and product cleanliness and safety, including the use of an annually-inspected commercial kitchen; and on the cultivation side, odor, and sewer discharge requirements are included to maintain health and safety of the community. The public has had many ongoing opportunities to give comments at public meetings or to City staff during the regulation development process.

Mayor Hagan then called for public input for the record on the issue. He asked that anyone wishing to speak to step forward to the table, introduce themselves and sign in for the record. The Mayor requested that comments be addressed to the provisions of Ordinance No. 5 and to please be brief. If others have previously given the same comments, please indicate that without restating the comments.

Carolyn Riggs, Gunnison Resident. Provided a handout containing concerns and comments she has on the Ordinance. Regarding tax collection, in Section 3 C. it is not clearly stated where the 5% sales and excise tax will be deposited. She would like that defined. She asked the deposited funds be primarily focused for education programs that emphasize youth development through a grant program. The funds should be clearly defined and the granted programs should have specific measureable outcomes. In Section 8.50.050 she would like clarification on the items she has outlined in the handout. In the Land Development Code (LDC) Section 3.14 she would like cohabitation of cannabis businesses to be allowed. She cited a location in Denver where cohabitation of cannabis businesses exist. In LDC Section 3.14 C.3. she believes the cultivation and processes shouldn't be limited to allow for future innovation in processing products. In Section 3.15 she wants the buffer amended to not prohibit a marijuana business if 50% of the property is adjacent to restricted zones.. The business should be allowed if 51% of the property is not in the designated buffer boundary, then the entire deeded property should be allowed to be licensed. Regarding signage, she thinks businesses should be allowed opportunities to succeed and the signage restrictions do not allow for that to occur. The current draft allows for on-site signage but that is very limited.

Lou Costello, County resident and owner of the commercial cultivation center in the County Industrial Park. He thanked Ms. Riggs for her impressive comments. He plans to apply for a retail license and he has had several locations reviewed. Many of the locations are not allowed under the current ordinance. He does have a location now and he plans to construct a new building. Section 5.15 B.4 regarding signage doesn't allow the graphic of a marijuana leaf to be used. That provision is very limited. He has spent a lot of money on his business logo development and it includes a marijuana leaf to identify the business. He would like that provision changed to allow the graphic for identification purposes.

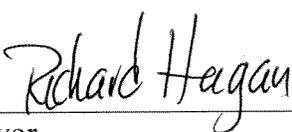
Ed Slaughenhaupt, Gunnison resident. Mr. Slaughenhaupt passed out a handout to Council entitled "Marijuana on Main Street". He then informed Council he has worked with inmates for the past 10 years and most of their problems stem from drug and alcohol use. He has seen the downside of drugs including marijuana. It is a harmful substance. Our population of minors has not been addressed in these regulations. Mr. Slaughenhaupt read sections regarding marijuana statistics use and abuse from a parent's guide from the Gunnison County Substance Abuse Prevention Program (GCSAPP). The ordinance allows for marijuana stores in the North Main Street commercial areas, the West Tomichi commercial areas and in the Industrial Zone. He is most concern with marijuana stores in the North Main Street commercial area. A lot of children walk to the parks and the community center in that area. They will be exposed to the marijuana stores. Exposure on kids is not just a revenue source for the City. We get a new crop of under 21 years old minors every year at Western State. The statistics are out there. We need buffers and restrictions and not have the stores on the main entries in town. Statistics show harm from marijuana use and it changes how the brain works. He has a personal motivation since two of his grandkids didn't graduate from college because of their addiction to marijuana. He would like the marijuana shops to follow the same process as the Sexually Oriented Businesses that were addressed 12 years ago. These are only allowed in the Industrial zone. He has made some concessions and would only like the businesses in the Industrial Zone and the Commercial Zone on West Tomichi. There is not the exposure to kids in those areas. The Gunnison Country Times held a survey regarding the location of marijuana facilities and it overwhelmingly showed the Industrial Zone was the preferred location. He also reminded Councilor Morrison he voted for her because she stated in her campaign that she didn't want to see marijuana stores on Main Street. Mr. Slaughenhaupt reminded Council in their first discussion that there was a buffer zone around parks and churches. That has been thrown out. He is asking for marijuana stores to be located in the Industrial Zone and in the West Tomichi Commercial areas and not on North Main Street.

Jonathan Jones, Gunnison resident and Pastor of the First Baptist Church. He is arguing for marijuana facilities to be located only in the Industrial Zone. The original buffer maps had buffers around churches and parks. Those buffers are now gone. He is asking that the buffers around churches and parks to be reinstated. He works with youth and children's ministries and wants the children protected.

John Billingsly, Gunnison County resident. Mr. Billingsly thanked Council, present and past, and staff for their work on the regulations. He thanked Council for the opportunity to have a marijuana business in Gunnison. He is a father and believes in protecting children. The City should use the tax revenue that is generated for programs to educate children and keep marijuana out of the hands of children. Having legitimate, regulated business will accomplish that. Mr. Billingsly read part of an article from the Huffington Post regarding marijuana. People die from alcohol overdoes but there has never been a death from a marijuana overdose. The article discussed the evolution on the prohibition of marijuana. We are now at the forefront of ending marijuana prohibition. We need to use tax dollars for the education of youth.

Mayor Hagan asked if any other letters, emails or other comments were received from the public to be entered into the record. City Clerk Davidson stated that no additional new comments were received. The previous letters received are included in their packets and these are from: Eric Norum, Robert Drexel, Tony Cecere, Merlin Schafer, and Matt Schwartz. [Note: an email regarding the issue was sent by Lou Costello prior to the Public Hearing but was not seen until after the Hearing was closed. A copy of the email is included in the official Public Hearing record.]

Mayor Hagan thanked all of the citizens for their comments. Mayor Hagan called for any final comments to be entered into the record. Hearing none, Mayor Hagan closed the Public hearing at 8:10 P.M.



Mayor



City Clerk