

LEADVILLE CITY COUNCIL
REGULAR MEETING MINUTES
Tuesday, January 20, 2015

CITY COUNCIL PRESENT:

Greg Labbe, Councilmember
Mike Canty, Councilmember
Jaime Stuever, Mayor
Jake Mohrmann, Councilmember
Luke Finken, Mayor Pro Tem
Gwen Shepherd, Councilmember
Max Duarte, Councilmember

STAFF, DEPT HEADS, & COMMISSIONERS PRESENT:

Sarah Dallas, Administrative Services Manager (ASM), Planning Official
Jim Schneider, Street Department Supervisor
Dan Dailey, Fire Chief
Joe Swyers, City Clerk

City Council met in a regular public session in the Council Chambers of City Hall.

Mayor Stuever called the meeting to order at 6:30 PM with the Pledge of Allegiance. Roll Call was taken.

(6:31 PM) Public comments: None.

(6:31 PM) Agenda Revisions: None.

(6:31 PM) Presentation of student art submissions for Cities and Towns week.

Amanda Good introduced several intermediate school students who presented their artwork to city council which portrayed what they perceived what the city government does.

(6:39 PM) Approval of minutes of the regular meeting of January 6, 2015.

Mayor Pro Tem Finken moved to approve the minutes of the January 6, 2015 city council regular meeting Councilmember Canty seconded. In response to a question about the minutes being marked 'draft', City Clerk Swyers explained that previous minutes were labeled draft at the bottom but the watermark was added this time to make it very clear that these are not approved minutes. There were no corrections. Roll call: unanimous yes.

(6:41 PM) Conditional Use Permit for AG Masonry and Marble manufacturing 300 Tom Starr Street.

Councilmember Finken moved to approve the conditional use permit for a granite and marble manufacturing business at 300 Tom Starr Street with the following conditions:

All representations made by the applicant and relied upon by the Planning and Zoning Commission and the City Council in evaluating the conditional use permit shall be deemed a part of the application and binding upon the applicant and that water from wet saws will be properly filtered to prevent damaging debris from entering the drainage system of the Leadville Sanitation District. Councilmember Labbe seconded. Roll call: with the exception of Councilmembers Labbe and Duarte who abstained, unanimous yes.

(6:44 PM) Temporary Use Permit for Colorado Springs Cycling Club at Ice Palace Park, June 6, 2015.

Councilmember Canty moved to grant a temporary use permit for Colorado Springs Cycling Club to hold the annual Buena Vista Bike Fest to the Ice Palace Park on June 6th, coming to Leadville and Ice Palace Park. Mayor Stuever seconded. Sarah Mudge, treasurer of Cloud City Wheelers, explained their club's hosting a lunch for the ride in Ice Palace Park where they will set up 600 to 750 with porta potties and break down by 3 pm. The ride donates some money to the club which, in turn, donates to the Huck Finn Park or other recreation. Councilmember Finken and Street Supervisor Schneider recommended using a more temporary marking on pavement instead of paint. Planning Official Dallas will add that condition to the approval letter. Roll call: unanimous yes.

(6:44 PM) Temporary Use Permit for Ski Joring on March 7th and 8th.

Barbara Brink, representing Leadville Ski Joring Association, described the event and no changes from last year. The Lions Club is the only vendor and is not part of Ski Joring. Other events are also not part of Ski Joring. They are partnering with the Grand Opening of the Tabor Grand Hotel. They will provide copies of the participant waivers to Planning Official Dallas. Planning Official Dallas reported that Bud Elliott of the Healy House had asked to retain walkability on the west side of the Avenue to get to events at the Healy House. In response to Councilmember Shepherd's question about closing Harrison Avenue all day Friday, whereas the first event is not until 5 pm, Street Supervisor Schneider explained that snow is put down in the morning so that the course can be built during the day. Councilmember Shepherd asked about the side street closure be done at the alleys rather than on Pine and Poplar. Mr. Schneider explained that a truck and trailer going down the side streets will then be a problem. Councilmember Canty reported that tractor trailers get stuck at 4th and Harrison detour. Mr. Schneider explained that a detour on 3rd Street doesn't work, such as down by Coldfoot Auto. Councilmember Labbe said it was reasonable to allow the half blocks open for side street businesses and people to come down and park. Planning Official Mudge suggested that signs say "closed to thru traffic".

Councilmember Labbe moved to approve the temporary use permit for The Leadville Ski Joring Association to hold their annual event Friday, Saturday and Sunday, March 6, 7, and 8, 2015 with the caveat that signs, hopefully saying

closed to thru traffic, are put in the middle block or at the alleys on both east and west side. Councilmember Canty seconded. Councilmember Finken moved an amendment that it be a dog free event. Councilmember Canty seconded. Roll Call on the amendment: unanimous yes. Roll call on the main motion: unanimous yes.

(7:07 PM) Mayor Stuever adjourned the city council meeting and convened the Local Liquor Licensing Authority.

(7:07 PM) Change of Manager for Doc's LLC.

Councilmember Finken moved to approve the change in manager for Doc's tavern license from Don Baker, the owner, to Rebecca Brandau conditioned on clearance from the city police chief after background checks from fingerprints are done. Councilmember Labbe seconded. City Clerk Swyers explained that fingerprints were submitted to Colorado Bureau of Investigation (CBI) but it will take several weeks for results to come back and background check done. Roll call: unanimous yes.

(7:10 PM) Special Event Permit for Elks Lodge for Boom Days August 7th, 8th & 9th and Ski Joring March 7th, 8th & 9th. Don Ferrie, representing the Elks, explained the events, that this is his 43rd year and that the Lodge has been doing this for Boom Days for about 35 years. The alley will be kept open. For Ski Joring serving will be done inside the Lodge, but for Boom Days people will be carrying drinks out to the mining events. In response to a question from Councilmember Labbe about a three or five year permitting process, City Clerk Swyers reported that for a special liquor permit, according to state law, they must apply annually. For temporary use permits, that is up to the city.

Councilmember Labbe moved to approve the special event Liquor Permit for the Elks Lodge for Skijoring on March 7th & 8th and three days for Boom Days on August 7th, 8th & 9th, 2015. Councilmember Canty seconded. Roll call: unanimous yes.

(7:16 PM) Mayor Stuever adjourned the Leadville Liquor Licensing Authority and convened the Leadville Marijuana Licensing Authority.

Councilmember Labbe proposed an idea from City Clerk Swyers that, since there are no medical marijuana licenses, the city do away with medical marijuana entirely and reduce the total potential store licenses from six to five. The consequence of the present situation is that the applicants are in a race and thus in an awful position. This would take a lot of pressure of the city clerk and administrator. Councilmember Shepherd suggested that it be changed to "and/or" in order to allow the option for medical. This is to be further discussed at the work session.

(7:21 PM) Retail marijuana store license renewal for Sipes et al, dba Sipes Mountain Traders dba Natures Spirits. Mayor Stuever referred to the complete renewal application and evidence of payment. Steve and Andrea Sipes explained that there were some remodeling changes inside but there were no changes in the business operation. Councilmember Labbe passed along the complimentary reports from Police Chief Leake about Natures Spirits. City Clerk Swyers reported that staff has no reason for denial or revocation and recommended renewal. He further reported that the renewal application was submitted this day because the renewal form was not prepared and available to the applicants until this last week.

Councilmember Finken moved to approve the renewal of the Retail Recreational Marijuana Store License for Sipes Mountain Traders, dba Natures Spirit at 113 East 7th Street. Councilmember Labbe seconded.

Roll call: unanimous yes.

(7:24 PM) Public hearing for new Retail Recreational Marijuana Store License by Boeve et al dba JEM Dutch Acres, dba Earl's, at 1013 Poplar Street.

Mayor Stuever explained the public hearing procedures and ground rules. Councilmember Canty moved to open the public hearing. Councilmember Finken seconded. Roll call: unanimous yes.

Joel Payne, representing Matt and Earl Boeve, JEM Dutch Acres, dba Earl's, made the following points:

- Proposing a new license in the same location as their prior location.
- A second denial presents a problem with them at the state for applications for additional licenses.
- There have been errors in procedural hearings.
- They submitted their application first, and referred to previous letter from City Clerk Swyers to council .
- They should have been considered first in the original hearing and for reconsideration, but City Council changed the agenda for approvals to put Earl's last.
- The only reason given for the denial was that City Council doesn't want one entity owning multiple licenses in the same category – and that is not a reason for denial either on the record of decision for denial or in state law.
- An incomplete application was approved for Roots Rx had apparently not read the local ordinances to know about the restriction on two separate businesses within 250 feet.
- City Council has seemed to bend over backwards for Roots Rx every step of the way.
- Earl's are long time locals, coming in last, and are seeking a fair shot.

Dan Pedrow, owner of the medical marijuana facility which JEM Dutch Acres bought, spoke in favor of the application.

Rudy Klucik, neighbor and owner of the RV Corral at 135 West 2nd Street, spoke in favor of the application and spoke against outsiders coming in and said that Earl's should be considered as first choice.

Rohn Robbins, attorney for Roots Rx, said that Mr. Payne was mistaken, that Roots Rx did have some confusion about the 250 limit, but that did not make the application incomplete. He also said that since three licenses were granted and issued, then Roots Rx is opposed.

Applicant rebuttal:

Joel Payne explained that the submitted application was incomplete because what was included in the site diagram is no longer available due to the 250 foot limitation, that the security diagrams, building layouts, points of entry, or any of that are unknown if you don't know where the buildings will sit on the property. Also their original presentation dictated separate structures for vegetative and for flowering are not allowed because, according to Bob Masters at Colorado Marijuana Enforcement Division: "You need multiple licenses for multiple cultivation locations." You can only have a license for one address for one building and cited Marijuana Licensing Rule 103 which stated 'Limited Access Area' means a building, room, or other contiguous area upon the Licensed Premises where Retail Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee." and C.R.S. 12-43.3-105 regarding limited access areas which says essentially the same thing. Mr. Payne further stated that the state would not approve applications as they were presented. Mr. Payne then announced a point of order and said that was his rebuttal and indicated that Rohn Robbins was not to speak.

Councilmember Labbe moved to close the public hearing. Councilmember Canty seconded. Roll call: unanimous yes. Councilmember Labbe moved to conditionally approve the application of JEM Dutch Acres, LLC dba Earl's for a retail marijuana store located at 1013 Poplar Street based upon the information presented in the staff report, the evidence and testimony presented at the November 25, 2014 and January 20, 2015 public hearings and that the application meets the criteria set forth in section 5.48.060 of the municipal code and is of good moral character. This approval is subject to the following conditions that must be met prior to issuance of a license:

1. That a retail marijuana store license is available under the Leadville Municipal Code, as it may be amended; and
2. That this approval is restricted only to the proposed premises at 1013 Poplar Street and all other application and record information available to the authority at this time; and
3. That the applicant produce any additional relevant or updated information requested by this authority prior to the authority taking further action upon this approval; and
4. That the applicant is in compliance with state and local law, as it may be amended; and
5. That the applicant shall indemnify and hold harmless the city of Leadville, its marijuana licensing authority, and any of its officers, agents, attorneys, or employees from any and all claims, damages, liability, or court awards, including costs and attorneys' fees, that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone arising out of this conditional approval or the marijuana license application and licensing process as evidenced in writing signed by the applicant; and
6. That the applicant fulfill all the criteria for license issuance, including that the premises be inspected by the building official, fire department and police department and other applicable agencies and approved for the occupancy in conformance with the municipal code and the state retail marijuana code prior to issuance of a license.

Further, the authority directs staff to provide the applicant and the state of Colorado marijuana licensing authority with a written copy of this decision.

Mayor Stuever seconded.

Councilmember Finken spoke in favor of approval, described what the applicant has done with their location at 115 Harrison Avenue, and stated that if same is done at the new location we would have a great storefront.

Councilmember Labbe, in answer to questions about issuing another license when three have already been issued, explained that the authority has granted four licenses out of three but that does not mean the licenses have been issued. He further explained that that leaves the applicants and city staff in an untenable position and that changes to the city code is the only opportunity to treat these businesses fairly. Councilmember Labbe and Mayor Stuever explained that issuance of the licenses depends on building inspections and approvals. Deputy City Clerk Dallas explained that the additional two licenses were approved but the third license has not been issued because issuance is contingent on approval from the building department, chief of police, and fire department in order to officially issue a license. Councilmember Mohrmann asked if that would result in a race to build out the lot to get that third license. Ms. Dallas answered yes. Councilmember Mohrmann further asked if this approval would, and cited municipal code 5.48.170, "exceed the maximum number of licenses authorized to be issued in the city." Clerk Swyers reported that there only two licenses have been issued. Councilmembers Duarte and Labbe expressed that if the municipal code is changed, then the other license would fall into place and that presumes that both applicants could get licenses.

Roll Call: Mayor Stuever and Councilmembers Labbe, Canty, Finken and Duarte voted yes. Councilmember Mohrmann voted no. Councilmember Shepherd abstained. The vote was five yes, one no, one abstain.

(7:52 PM) Retail Recreational Marijuana Cultivation License by Holmes & Tramm dba RFSC LLC dba Roots Rx, at 501 S. Hwy 24.

City Clerk Swyers pointed out the suggested motions in his staff input sheet and explained that the authority, if it was to vote for denial, actually could not do that at this meeting but would have to set a public hearing. He further pointed out that one cultivation license has been approved, but zero have been issued.

Councilmember Canty moved to conditionally approve the application of Robert Holmes and Peter Tramm, dba RFSC, LLC dba Roots Rx for a retail marijuana cultivation license located at 501 South Highway 24, Leadville Colorado based upon the information presented in the staff report, the evidence and testimony presented at the January 20, 2015 meeting of this authority, and that the application meets the criteria set forth in section 5.48.060 of the municipal code and is of good moral character. This approval is subject to the following conditions: that the premises be inspected by the building official, fire department and police department and other applicable agencies and approved for occupancy in conformance with the municipal code, and the state retail marijuana code prior to issuance of a license; further, the authority directs staff to provide the applicant and the State of Colorado Marijuana Licensing Authority with a written copy of this decision. Mayor Stuever seconded.

Roll call: unanimous yes.

(7:59 PM) Councilmember Labbe recused himself by leaving the council room.

(8:00 PM) Retail Recreational Marijuana Cultivation License for Josh Myers, dba Elevated Quality Wholesale, at 210 East 10th Street.

Joshua Myers gave a short presentation for plans to establish a competitive boutique retail marijuana cultivation facility for high end products to licensed products to stores throughout Colorado. He stressed that they will work with the community and neighborhood and asked for a favorable vote on their application.

Councilmember Finken moved to conditionally approve the application of Josh Myers dba Elevated Quality wholesale LLC, for a retail marijuana cultivation license located at 210 East 10th street, Leadville Colorado based upon the information presented in the staff report, the evidence and testimony presented at the January 20, 2015 meeting of this authority, and that the application meets the criteria set forth in section 5.48.060 of the municipal code and is of good moral character. This approval is subject to the following conditions: That the premises be inspected by the building official, fire department and police department and other applicable agencies and approved for occupancy in conformance with the municipal code, and the state retail marijuana code prior to issuance of a license; Further, the authority directs staff to provide the applicant and the State of Colorado Marijuana Licensing Authority with a written copy of this decision. Councilmember Canty seconded.

City Clerk Swyers and Deputy Clerk Dallas explained that issuance of a license depends on approvals by other agencies and other criteria and that the final issuance does not come back to the licensing authority.

Roll Call: except for Councilmember Labbe who was recused, unanimous yes.

(8:07 PM) Mayor Stuever adjourned the Leadville Marijuana Licensing Authority and re-convened the council meeting and declared a short recess for those leaving the council room to clear out.

(8:08 PM) Request from fire chief to carry over vacation hours.

Chief Dailey explained that his intention was not to request this, but put a lot of time in for talks regarding possible consolidation of ambulance service with fire department. Councilmember Labbe explained that vacations are to the chief's and city's benefit and asked what would cause this to happen again and expressed that this is not to be done every year. Chief Dailey expressed that depends on what comes up. Roll Call: unanimous in favor. Councilmember Mohrmann asked if it could be paid out instead. Mayor Stuever explained that prior discussions by Council was not have a pay out every year. ASM Dallas explained some of the upcoming changes to include Paid Time Off (PTO).

Councilmember Finken stated that this is use it or lose it and emphatically asked Chief Dailey to take vacation time. Councilmember Labbe moved to allow Fire Chief Dan Dailey to carry over his additional 60 hours, in addition to the 40 hours he is allowed to carry over, for a total of 100 hours into 2015. Councilmember Canty seconded.

Roll Call: unanimous yes.

(8:17 PM) Councilmember Gwen Shepherd asked about council's intent to pursue work session items which council did not have time to discuss among themselves due to the number of public speaking at the work session.

Councilmember Labbe and Mayor Stuever said that could be discussed at the retreat. Councilmember Shepherd stressed that the discussion must be result in decisions to bring to the public. Mayor Stuever and Councilmember Duarte said that they support all the events. Councilmember Labbe said that the public who has come to talk to us has spoken, and he is against taking it again to the public. Planning Official Dallas stated that the process for temporary use permits for the different kinds of events were not discussed. City Clerk Swyers explained that events range from a parade with a dozen people to a multiday event with thousands of people. There are different

applications for large and small events, and we could be accused of treating differently little events to the big events. The temporary use permits section in the municipal code includes food wagons and temporary sales. He asked that council give guidance for that great range. Planning Official Dallas disagreed, said the we are not treating people differently and explained that we have specific criteria for number of participants and size of event for using a smaller application versus a larger application form; but agreed that there is a lot of uses lumped into that section. A council retreat meeting of 3 hours was set by City Council for Thursday, January 29, 2015 at 5:30 p.m. at City Hall. The meeting will be open to the public. Staff and department heads are invited. Food will be available.

(8:33 PM) Department Reports:

Mayor Stuever moved to accept the police department report. Councilmember Canty seconded.

All councilmembers indicated being in favor of accepting the report in favor by a raise of hands.

Councilmember Finken moved to accept the animal shelter report. Councilmember Canty seconded.

All councilmembers indicated being in favor of accepting the report favor by a raise of hands.

A discussion ensued about appointing Jim Schneiter as street supervisor, his increase of salary to \$45,000 on January 12, 2015, a bonus of \$5000 at the end of 2015, and criteria for evaluation. In response to a question about criteria, including, but not limited to, managing overtime, for the bonus Mayor Stuever will bring those to council for a future motion .

Councilmember Labbe moved to accept the promotion of Jimmy Schneiter to supervisor at a yearly salary of \$45,000. Councilmember Canty seconded. Roll call: unanimous yes.

Mayor Stuever moved to accept the street department report. Councilmember Finken seconded.

All councilmembers indicated being in favor of accepting the street report by a raise of hands.

Councilmember Finken moved to accept the fire department. Councilmember Canty seconded. Discussion of clearing snow for fire hydrants included that fire hydrants on private property are the responsibility of the property owner, where on public property, then Parkville was clearing the snow but Parkville will not do it anymore. Chief Dailey explained mutual aid agreements. Copies of all signed mutual aid agreements are to be provided to the city clerk. All councilmembers indicated being in favor of accepting the report by a raise of hands.

Chief Dailey explained the fire marshal report and the February 23rd meeting on 2012 building and fire codes and how those programs will integrate with the city and county so they are not a burden on the community in any way. The monthly fire marshal report will be attached to and regarded as the part of the monthly fire department report.

Councilmember Finken moved to accept the administrative services report. Councilmember Canty seconded. The upcoming changes to the personnel policy were discussed. Councilmember Finken stated that he preferred that objections by Treasurer Benson come to council at the February 10th work session rather than included in changes to the policy beforehand. All councilmembers indicated being in favor of accepting the report by a raise of hands.

(9:11 PM) Fire management board will meet on January 22nd at 9:30 at the County Commissioners room.

Councilmember Mohrmann will attend a brownfields meeting on January 28th with the county. City Clerk Swyers asked councilmembers to inform him of changes to the regular meeting. The Historic Preservation Commission generally meets only on the 2nd Tuesday of the month, except they may meet on the 4th Tuesday of February.

(9:11 PM) Bills:

Councilmember Canty moved to approve payment of the bills. Councilmember seconded. Roll call: unanimous yes.

(9:12 PM) Mayor Report included reports on:

discussions with Big Lots to use the ALCO building; negotiations on the fire union contract; guest speaker at Quincy for foreign exchange students from the middle east.

(9:12 PM) Councilmember Reports.

Councilmember Canty reported on attending the hospital board meeting.

Councilmember Labbe reported on attending the hospital advisory board meetings and emphasized the role of the county commissioners for offering financial assistance in getting Centura Health to help with the hospital.

Councilmember Mohrmann reported that the Herald Democrat makes the legal available on the Herald Democrat website and on the website www.publicnoticecolorado.com

(9:18 PM) Mayor Stuever adjourned the council meeting.