

LEADVILLE CITY COUNCIL  
SPECIAL MEETING MINUTES  
Tuesday, January 27, 2015

CITY COUNCIL PRESENT:

Jaime Stuever, Mayor  
Luke Finken, Mayor Pro Tem  
Greg Labbe, Councilmember  
Mike Canty, Councilmember  
Jacob Mohrmann, Councilmember  
Gwen Shepherd, Councilmember (arrived at 5:51 PM)  
CITY COUNCIL ABSENT: Max Duarte, Councilmember

STAFF, DEPT HEADS, & COMMISSIONERS PRESENT:

Sarah Dallas, Administrative Services Manager, HR and  
Planning Official  
Joe Swyers, City Clerk  
Kathie Guckenberger, City Attorney

City Council met in a special public session in the Council Chambers of City Hall.  
Mayor Stuever called the meeting to order at 5:30 PM. Roll Call was taken.

(5:31 PM) Public comments for items not on the agenda: None.

(5:30 PM) Agenda Revisions: Mayor Stuever moved to remove line item 3, update on marijuana issues within the city limits of Leadville, and also line item 5, proposed marijuana code changes and business licenses changes, from the agenda; and also wording changes on the executive session wording to exclude "and business licensing" and make that just "code changes". Councilmember Canty seconded.

Mayor Stuever explained that Police Chief Leake had told him that there were no problems for him to bring up and thus, the mayor felt he didn't need to be here.

Mayor Stuever explained that, regarding marijuana code changes, we have the option to go into executive session and there is not a lot for discussion beforehand.

Councilmember Labbe said that there is a lot to be discussed in the public forum for us to consider, that it is at the heart of what we are here for; these are delicate matters but he would not be comfortable with leaving the people in this room out of the conversation entirely.

Mayor Stuever explained that there had been a lot of comments at public meetings and councilmembers are very much aware of some of the things we need to address.

Councilmember Finken agreed with Councilmember Labbe that number five is at the heart of what people are here for, that there are a lot of people here to talk about at least the first part of number five. He would be fine not talking about business license changes at this time.

Councilmember Mohrmann questioned why we're having a meeting without number five.

Mayor Stuever said that we have an opportunity to speak with legal counsel during executive session.

Mayor Stuever offered to withdraw his motion. Councilmember Canty withdrew his second. Mayor Stuever withdrew the main motion.

Mayor Stuever moved under agenda revisions to omit line item 3 from the agenda and, on line item five, to have only the proposed marijuana code changes and change the executive session wording to just "code changes" where it says "and business licensing." Councilmember Canty seconded.

Roll call: unanimous yes. [Councilmembers Shepherd and Duarte were absent].

(5:38 PM) Update on marijuana and public health.

Colleen Nielson, director of the Lake County Public Health, and Kerri Quinlan, health and wellness coordinator for Lake County Public School District gave a presentation regarding marijuana affects.

(5:54 PM) Councilmember Finken read the letter from City Treasurer Betty Benson.

(5:58 PM) Update from the marijuana industry representatives included Andrea Sipes from Natures Spirits; Alex Hearing from Two Dogs Products; Earl Boeve, Matt Boeve and Joel Payne from Earl's, Chris Green from Roots Rx.

(6:25 PM) Proposed marijuana code changes.

Councilmember Finken referred to the list of seven topics identified by city council. Councilmember Mohrmann added a number 8 regarding criteria G in conditional use permits. Councilmember Labbe cited the criteria in the liquor code for "reasonable requirements of the neighborhood" and "desires of the adult inhabitants" which, he said, should be in the city's marijuana code. Planning Official Dallas explained that the conditional use permit criteria are different from licensing. Councilmember Labbe then offered that his concern be item number nine.

(6:29 PM) 1. Categories and number of licenses- medical/retail license categories.

Councilmembers Finken and Labbe explained the intent of council to allow three business per category to allow for competition and that limiting it two would more of a monopoly. Councilmember Labbe explained why he now believes there should be a maximum of three per category; and that we should remove medical marijuana licensing. Mayor Stuever supported eliminating medical or limiting to one license. Councilmember Finken explained reasons to keep medical marijuana for treatment of children. Medical marijuana businesses could be located outside the county. Councilmembers agreed to one license per medical category except for testing facilities.

(6:45 PM) 2. Zoning of licenses. \*see attached table of uses and Leadville zoning map.

Planning Official Dallas explained the zoning table of uses to Councilmembers. Councilmembers Labbe and Finken explained the intent of Planning & Zoning Commission to change "uses by right" to conditional uses to force a public hearing and public input. Councilmembers agreed to leaving the zoning table of uses as it is.

(6:50 PM) 3. Section 5.48.110 (E) No one class of retail marijuana establishment may be located within 250 feet of another retail marijuana establishment of that same class "class"; any other distance/location restrictions. Councilmembers Finken and Labbe explained the intent was to not have three retail stores within 250 feet of each other. Councilmember Shepherd explained that having other marijuana facilities, but not stores, clustered would prevent having them scattered about town. Attorney Guckenberger explained a confusion of "retail marijuana" being associated with "retail store" in state law. Councilmembers agreed to these changes to retain 250 foot restriction on stores, but to allow other categories to be close together such as to allow vertical integration. Councilmember Finken explained the restrictions imposed by distances from schools and family and youth centers.

(7:05 PM) 4. The section 5.48.160 "The cultivation of marijuana on or within a retail marijuana store is prohibited." The "on" language and making sure the intent is fully understood by City Council. Councilmember Finken clarified that the restriction was to not be in the same building and was not to restrict being on the same land. Attorney Guckenberger explained a "licensed premises". Councilmembers agreed to having multiple licenses on the same land.

(7:10 PM) 5. Policy revisions considered multiple licenses allowed per category and per entity. Was the intent to restrict an entity from having more than one license per category?

Councilmember Finken explained the intent to allow competition, but to avoid a monopoly a restriction may be need to two of the retail facilities or all three allowed facilities within a category or class. Attorney Guckenberger will draft language to do that.

(7:12 PM) 6. Section 5.48.180 -Consideration of changing the hours of operation of a retail store. State requirements are 8:00am-midnight. City of Leadville requirements are currently 10:00am -9:00pm. Councilmembers agreed to what is in state law, but want to hear from Police Chief Leake.

(7:14 PM) 7. Section 5.48.060 (F) 240 days to get operational has come up and have been asked by the public to look into expanding to be for a full year, as the state requires, or keep as is or potentially even shorten the requirement. Distinction of "issued" and "approved" licenses and when this clock officially goes into effect.

Attorney Guckenberger explained that the 240 days begins after the license is issued and that issuance depends on meeting various building code and other requirements. Chris Green explained the processes for getting construction permits. Councilmember Finken explained that the 240 days is the time for a cultivation to get into operation after a license is issued. There is no time limit for issuance after approval. Conditional Use Permits have two years. The state license expires in one year if a local license is not issued. This will be looked into further.

(7:37 PM) 8. Criteria G for Conditional Use Permits. "That the proposed conditional use will not be likely to prove detrimental to the public health, safety or welfare of city residents nor cause hardship for neighboring persons" Councilmember Mohrmann explained that this criteria could be used to deny most any business. Councilmember Labbe explained that he was told that criteria should be objective. This warrants more investigation.

(7:41 PM) 9. Discussion of importance of public input as it applies to licensing for marijuana.

Councilmember Labbe requested having in code the reasonable requirements of the neighborhood. Attorney Guckenberger explained that in liquor the applicant presents a petition showing the needs of the neighborhood.

(7:44 PM) 10. Recommendations from public health department.

Councilmember Mohrmann asked for discussion about a local tax on marijuana and earmark it for prevention.

Councilmember Finken explained why this was not done, but would want it as a future agenda item for discussion.

(7:46 PM) Recess.

(7:55 PM) Executive Session.

Mayor Stuever moved to go into executive session under C.R.S. 24-6-402(4)(b) for the purpose of discussing with and receiving legal advice from the city attorney representing the City of Leadville specifically legal questions related to marijuana code changes; and included in the executive session all councilmembers present [Councilmembers Cauty, Finken, Labbe, Mohrmann, Shepherd, Stuever stated their names] and legal counsel Kathie Guckenberger and Administrative Services Manager Sarah Dallas and the executive session will be held upstairs and further move to reconvene the council meeting at the conclusion of the executive session for the purpose of taking any actions deemed necessary. Councilmember Labbe seconded. Roll call: unanimous yes.

(9:13 PM) Executive Session concluded. Mayor Stuever reconvened the regular meeting of city council.

Those present in the executive session stated their names. He then asked if anyone had concerns about what was discussed. There were no concerns expressed and no motions made regarding the subject of the executive session.

(9:14 PM) Mayor Stuever adjourned the council meeting.