

CITY OF LEADVILLE  
CITY COUNCIL REGULAR MEETING  
Tuesday, December 15, 2015

<p>City Council Members <u>Present:</u> Gwen Shepherd Max Duarte Greg Labbe Jaime Stuever, Mayor Jake Mohrmann Mike Canty <u>Absent:</u> Luke Finken, Mayor Pro Tem</p>	<p><u>Staff Present:</u> Joseph Swyers, City Clerk Sarah Dallas, Planning Official, and Administrative Services Manager (ASM) Jim Schneiter, Street Department Supervisor Dan Dailey, Fire Chief Mike Leake, Police Chief Pam Andrews, City Clerk-Elect Roy McGinnis, City Financial Director</p>	<p><u>Others present:</u> Ryan Fitzmaurice, reporter for Herald Democrat</p>
---	---	--

City Council met in a regular public session in the Council Chambers of City Hall. Mayor Jaime Stuever called the meeting to order at 6:30pm PM. Roll Call was taken.

(6:30 PM) Public comments on items not on the agenda: None.

(6:31 PM) Agenda Revisions: Mayor Stuever moved that agenda item #8 Building official and Building Code concern discussion by Triumphant Good Life not be considered until further notice, also that agenda item #5, minutes of Special Meeting from December 8th not be considered at this meeting. Councilmember Mohrmann seconded. Roll Call: unanimous yes.

(6:32 PM) Approval of minutes for the special meeting of December 1, 2015. Councilmember Labbe moved that Council approve the minutes for the special meeting of City Council December 1, 2015. Councilmember Canty seconded. Mayor Stuever stated he will abstain from the vote as he was not present at the December 1, 2015 meeting. Councilmember Labbe disputed that he made the comment attributed to him "Need decision now on percentage and accepting how departments allocate it within their departments". City Clerk Swyers agreed to delete the comment since it was essentially a duplicate of another comment made earlier in the December 1st meeting. Roll Call: with exception of Mayor Stuever who abstained, unanimous yes.

(6:34 PM) Councilmember Labbe moved to approve the minutes from the December 1, Regular meeting. Councilmember Canty seconded. Roll Call: with exception of Mayor Stuever who abstained, unanimous yes.

(6:35 PM) Early unscheduled business: None

(6:35 PM) Mayor Stuever adjourned the regular City Council meeting and convened the meeting of the Leadville Liquor licensing authority. City Council considered renewal of the liquor license for Silver Dollar Saloon, set to expire January 6, 2016. Councilmember Canty moved to approve renewal of the Tavern License for the Silver Dollar Saloon to sell Malt, Vinous, and Spiritous Liquors. Councilmember Labbe seconded. Roll Call: unanimous yes.

(6:36 PM) Mayor Stuever adjourned the meeting of the Liquor Licensing Authority and reconvened the Leadville City Council meeting.

(6:39 PM) Conditional Use Permit public hearing for Retail Marijuana Manufacturing at 145 Front Street. Mayor Stuever explained hearing procedure. Mayor Stuever asked if any Councilmember had conflict of interest with the applicant. Councilmember Canty responded no. Councilmember Mohrmann stated the applicant is his next door neighbor but did not feel there was a conflict of interest. No other Councilmember indicated conflict of interest. Mayor Stuever opened the public hearing to consider the Conditional Use Permit for Robert Holmes, Et al. dba Roots RX or RFSLVO, LLC at 145 Front Street Leadville, Colorado. Notice of this hearing was required to be published in newspaper at least 15 days prior to the hearing, additionally the property must be posted and affidavit of mailing notice to all property owners within 200 feet of the property is required.

(6:40 PM) ASM Dallas verified that posting requirements were met by the applicant and gave summary of the Planning & Zoning meeting (mentioned staff report) where Planning & Zoning recommended that City Council approve the Retail Infused Manufacture license at 145 Front Street.

(6:41 PM) Mayor Stuever stated that any correspondence received prior to the public deadline, during the course of this hearing or any other documents, photos or materials introduced at this hearing would hereby made a part of the record.

(6:42 PM) Applicant Rob Holmes and Chris Green made presentation describing the site, zoning and manufacturing process, including reference to staff report from Planning & Zoning. Associate Alex Hearing also spoke on their behalf. The commercial kitchen will be located on the north side of the structure according to the presentation.

- Concern was expressed about potential for explosions caused by the manufacturing process (Labbe)
- Applicant had not yet decided between a CO<sub>2</sub> process or butane process for extraction of oils from the marijuana. Chris Green stated that either process would be a "closed loop, pharmaceutical grade" process. Depending on which system is chosen, the Roots RX business would need to meet building codes that apply. He expressed desire to conduct a safe, professional operation.

- Alex Hearinging joined the presentation, stating that the amount of butane or CO<sub>2</sub> would be similar to that used for home barbeque, less than a 50 gallon tank. He also said there is very little gas loss from either proposed system. The system chosen will be professionally engineered.
- Mayor Stuever asked if anyone from the public would like to speak in favor of the proposal: Alex Hearinging spoke, emphasizing the high standards for compliance of the applicant. Rob Holmes also spoke, citing the time they will take with various local agencies, planning for a state-of-the-art facility.
- Mayor Stuever asked if anyone from public would like to speak against the proposal: Laura Vest who lives across the street from the site spoke in opposition to the proposal because of the chemicals that will be used in the processing of the marijuana. She was also concerned about the effect on property values, and traffic level.
- Chris Green responded to her concerns saying it would be difficult to address property values. He said the buildings and traffic flow will meet Leadville development criteria. He did not anticipate heavy traffic volume. He said side street traffic should not be an issue. The proposal includes 21 parking spaces on site.
- The property was a retail space when it was Enchanted Gardens and no traffic issues were observed (Labbe)
- Chris Green was told that to help his relationship with neighbors and his effect on property values, he could make sure that the facade of the building that faces highway 24 had the "look of Leadville", used the Eco Bus barn as an example. (Labbe)
- ASM Dallas reminded Council that the purpose of this meeting was to decide whether or not to issue a conditional use permit for retail marijuana manufacturing at 145 Front Street.
- Chief Dailey asked what would happen to the cooling system for the oil extraction process if it was left unattended and malfunctioned.
- Alex Hearinging responded that the system would never be running while unattended. Chris Green did not yet know what exact pieces of equipment will be installed. He assured Council that he would get answers to these questions and work closely with the Fire officials as an ongoing commitment. Chris Green again emphasized the safety of using a closed loop system. He said there are many safety questions being asked that will be addressed by building code.
- Chief Dailey expressed concern that since the marijuana industry is so new, there are not adequate international fire codes to address it.
- ASM Dallas again reminded Council that this meeting is to approve or not, this particular use of retail marijuana manufacturing on this particular property and that there will be many local entities to oversee each aspect of the business before the doors open.
- Chief Leake asked if the end product would have any solvent left in it. Chris Green responded that there is no way to get 100% of the solvent out of the end product but the end product is not flammable, the amount of residual fuel left is negligible, maybe 0.3% or less.
- Councilmember Labbe wanted to be sure that the potential danger, of this type of extraction system, is not sugar coated.
- Chris Green stated that there is a debate going on in the Roots team about which chemical to use in an extraction system is the safest. Alex Hearinging further explained the process. The system for either butane or CO<sub>2</sub> are very similar. CO<sub>2</sub> would be a higher pressure system with less risk. Mr. Green said they will use price, safety and taste of the product as some criteria to decide on which system to use.
- P & Z Commissioner Swyers let Council know that this type of system is used for essential oil extraction from flowers.
- Councilmember Mohrmann was not convinced that the public safety condition has been satisfied.
- ASM Dallas referred to the staff report from the P & Z meeting where an example of a motion to approve includes conditions such as following standards of the Marijuana enforcement division, approvals must be sent to the Police Chief and that representations made by the applicant are binding. She said Council can put whatever conditions on the approval that they want.
- Councilmember Mohrmann was still concerned about the business having not yet chosen between CO<sub>2</sub> or Butane. He wanted additional safety conditions such as sprinkler system and fire wall if butane or propane were used.
- Chief Dailey responded, in this situation, in the event of an explosion, a sprinkler system might not be effective. He said he would be working with the applicant on safety issues.
- Chris Green said there are no State requirements for performance criteria for the equipment used or safety criteria for the equipment used. There are State licensing requirements.
- Councilmember Labbe asked how many square feet in the structure. Chris Green answered 1100 Sq.ft total with 500 to 600 being the industrial kitchen itself. He cautions setting additional conditions that the equipment chosen might not end up being able to meet.
- Chief Dailey asked about the nearest exposures to the operation were. Chris Green explained that the nearest would be one of the buildings on the property. Councilmember Mohrmann stated that it was 125ft house corner to house corner to his house.
- ASM Dallas, recommended that additional conditions be kept vague since it would not be good to inadvertently make a condition that did not meet with code. She said they should rely instead on the Fire Chief and Fire Marshall to sign off on the project before a certificate of occupancy is issued.
- Mayor Stuever agreed that the matter should be in the hands of the professionals involved.

- Councilmember Mohrmann said that maybe they would not need to craft conditions into a motion since those items will most likely be part of the process anyway.
- Councilmember Labbe pointed out the extreme bar that Leadville businesses have to achieve with all the agencies that inspect them endlessly. Although he knows the safety issues are important, it is a burden that many of those people cannot sustain.
- P & Z Commissioner Swyers again pointed out the similarities between extraction of marijuana products and aromatic flower products and that similar criteria should apply in fairness.
- Applicant Rob Holmes said that the Marijuana Enforcement Division has a set of criteria that must be met in the licensing process and then the local jurisdiction applies their local codes for zoning, building etc. The State, he said looks for an operating document, design layout, your taxes are paid, does the applicant have felony?

(7:38 PM) Councilmember Mohrmann moved that City Council approve the Conditional Use Permit for Rob Holmes, Et al. DBA ROOTS RX or RFSC LVO, LLC at 145 Front Street to operate retail marijuana infused product license with the condition(s):

1. That the equipment used in the manufacturing facility must meet approved standards by the Colorado Marijuana Enforcement Division (MED), and those approvals will be forwarded to the Chief of Leadville Police, the Fire Chief and Fire Marshall prior to approval of your local marijuana license. As with all other licensed marijuana facilities in the City limits of Leadville, you will be required to obtain all other applicable state and local licenses and adhere to those state and local laws.
2. And that all representations made by the applicant tonight and relied upon by the Planning and Zoning Commission and/or the City Council in evaluating the Conditional Use Permit shall be deemed a part of the application and binding upon the applicant.

(7:40 PM) Councilmember Canty seconded. Roll Call: unanimous yes

(7:41 PM) Conditional Use Permit public hearing for Medical Marijuana Manufacturing at 145 Front Street. Mayor Stuever explained the hearing procedure. Mayor Stuever asked if any Councilmember had conflict of interest with the applicant: None, Met the applicants through previous meetings.

(7:43 PM) Mayor Stuever opened the public hearing to consider the Conditional Use Permit for Medical Marijuana Manufacturing by Robert Holmes, Et al. dba Roots RX or RFSC LVO, LLC at 145 Front Street Leadville, CO.

(7:51 PM) Presentation by applicant, Chris Green.

Chris Green explained that State Marijuana Enforcement Division requires retail (recreational) and medical marijuana operations to be completely separate. The site plan presented showed how the applicant met those criteria while also meeting Leadville zoning requirements. The site has both Transitional Commercial and Commercial zone areas. They will not have road access from highway 24.

(7:54 PM) Mayor Stuever stated that notice of this hearing was required to be published in the newspaper at least 15 days prior to this hearing, additionally the property must be posted and affidavit of mailing notice to all property owners within 200 feet of the property is required.

(7:55 PM) ASM Dallas verified that posting requirements were met by the applicant and explained that the applicant has to already be licensed for medical marijuana manufacturing in order to apply for the Optional Medical Cultivation CUP.

(7:56 PM) Chris Green continued with presentation for the Optional Medical Cultivation portion of the application. He included showing the zoning on the property and where on the property the buildings might be located according to that zoning. Roots anticipates a 3800 Sq.ft medical marijuana cultivation facility.

(7:57 PM) ASM Dallas explained that there is more than one zoning classification on the property being considered which is dictating where the buildings can be located. She said those may change in the future with the comprehensive plan.

(7:59 PM) Mayor Stuever asked for public comments in favor of the proposal. Alex Hearing spoke about his confidence in the applicant and the professionalism of the applicant.

(7:59 PM) Mayor Stuever asked for public comments against the proposal: None

(8:00 PM) Councilmember Shepherd asked which building would be built first. Chris Green said she was correct in assuming that there is an order in which facilities would need to be built.

(8:02 PM) Jim Schneiter of Street Dept. asked about snow removal and snow storage. Jim and Chris Green agreed to walk the property to discuss and make a plan.

(8:04 PM) Mayor Stuever closed the public input portion of the hearing

(8:05 pm) Councilmember Mohrmann asked if the presentation would be binding for the applicant since Chris Green stated that buildings might not be in exact locations shown on rendering. Chris Green responded that as long as the building meets code and zoning they can be placed where needed. His rendering does meet those development criteria but is not set in stone at this time.

(8:10 PM) Councilmember Labbe moved that City Council approve the Conditional Use Permit for Rob Holmes, et al. dba Roots Rx or RFSC MGLV, LLC at tract 1a per lot line adjustment plat at 354446 to operate medical marijuana

infused product license and a medical marijuana optional premises Cultivation license with the following conditions:

1. That the equipment used in the manufacturing facility must meet approved standards by the Colorado Marijuana Enforcement Division (MED), and those approvals will be forwarded to the Chief of Leadville Police, Leadville Fire Chief, and the Leadville Fire Marshall, prior to approval of your local marijuana license. As with all other licensed marijuana facilities in the City limits of Leadville, you will be required to obtain all other applicable state and local licenses and adhere to those state and local laws.
2. And that all representations made by the applicant and relied upon by the Planning and Zoning Commission and/or the City Council in evaluating the Conditional Use Permit shall be deemed a part of the application and binding upon the applicant.
3. That the Optional Cultivation Operation meets all other applicable odor and lighting requirements as stipulated in Leadville Municipal Codes.

Councilmember Canty seconded. Roll Call: unanimous yes.

(8:12 PM) RFP proposals and contract decision for I.T. Services.

(8:13 PM) ASM Dallas referenced the two quotes from Peak Performance Imaging Solutions and John Mora as well as the email review by Jim Fogarty, the current I.T. provider. If Peak Performance was chosen at \$24,600.00/yr for purposes of budgeting. There were questions from Council on the amount of hours and how to figure cost, what response time might be based on the RFP proposals.

(8:23 PM) Mayor Stuever called a 5 minute recess while ASM Dallas tried to reach Peak Performance on the phone.

(8:28 PM) Reconvened, City Clerk Joe Swyers said there were 20 work stations, 3 servers. ASM Dallas was unable to reach Peak Performance. City Clerk Joe Swyers pointed out that Mr. Mora is a "one man" operation and that may affect his response time.

(8:36 PM) Councilmember Labbe moved that City Council approve to contract for I.T. Services with Peak Performance for the 2016 fiscal year, Mayor Stuever seconded.

(8:37 PM) Roll call: unanimous yes

(8:38 PM) Upcoming meeting planning: Wed 12/23 or 12/30 there will be no Coffee Club meeting (Labbe)

(8:39 PM) Unscheduled Late Business: None

(8:40 PM) Police report: Mayor Stuever moved to accept the Police report, Councilmember Canty seconded. Chief Leake stated that the Code Enforcement Officer will attend Police Academy in January to become a full Police officer. Mayor Stuever asked if in the future there could be a code enforcement report presented to Council. Chief Leake responded that the current Code Enforcement Officer is already producing a spread sheet report and submitting to him. All councilmembers indicated being in favor of accepting the report by a raise of hands.

(8:43 PM) Animal Shelter report: Adoptions are up at the Shelter, numbers are low for animals in the Shelter (Labbe). Mayor Stuever moved to accept the Animal Shelter report, Councilmember Canty seconded. All councilmembers indicated being in favor of accepting the report by a raise of hands.

(8:44 PM) Fire Dept. report: Chief Dailey said he submitted winter fire tips to Herald Democrat. He mentioned keeping ice away from gas lines/meters as falling ice can break or damage gas lines. Councilmember Mohrmann moved to accept Fire Dept. report, Mayor Stuever seconded. All councilmembers indicated being in favor of accepting the report by a raise of hands.

(8:47 PM) Street Dept. report: Jim Schneider said they had 5 candidates for the open Street Dept position to be filled. He also said the new snow conveyor was working great and would be tested out on Harrison Ave. soon. Councilmember Labbe suggested another mailing to the public with specific snow removal/storage instructions. Mayor Stuever moved to accept Street Dept. report, Councilmember Labbe seconded. All councilmembers indicated being in favor of accepting the report by a raise of hands.

(8:51 PM) Admin report: Councilmember Mohrmann moved to accept the administrative manager report, Mayor Stuever seconded. Chief Leake said he talks to Jim Schneider about the snow removal situation daily. Snow should be plowed to the center of the roads rather than to the sides. (Labbe) All councilmembers indicated being in favor of accepting the report by a raise of hands.

(8:56 PM) Financial report: Councilmember Labbe moved to accept the Treasurer's report, Councilmember Canty seconded. Roll call: unanimous yes

(8:58 PM) Bills:

Councilmember Canty moved to pay the bills, Councilmember Labbe seconded. Roll call: unanimous yes

(9:00 PM) Mayor's report: 12/5 Mayor Stuever judged chili cook-off. History Colorado did video of Mayor Stuever at Tabor Grand. 12/11 City Christmas party was great, compliments to Sarah Dallas.

(9:01 PM) Council reports: Councilmember Canty added 5:30 on 12/17 Business After Hours to be held at People's Bank. Thanks again to Sarah Dallas for organizing City Christmas party (Labbe).

(9:05 PM) Mayor Stuever adjourned the meeting.