

**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD**

7:00 P.M

February 8, 2010

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

Mayor Murphy called the meeting to order at 7:00 p.m. in the Council Chambers, Lakewood Civic Center South, 480 South Allison Parkway, Lakewood, Colorado.

ITEM 2 – ROLL CALL

Those present were: Mayor Bob Murphy, Presiding

Diana Allen
Cindy Baroway
Karen Kellen
Sue King
Scott Koop
Adam Paul
Ed Peterson
Tom Quinn
Vicki Stack
David Wiechman

Others in attendance: Kathy Hodgson, City Manager
Tim Cox, City Attorney

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited and a moment of silent prayer was observed.

ITEM 4 – RESOLUTION 2010-7 – RE-APPOINTING A MEMBER TO THE LAKEWOOD EMPLOYEES MONEY PURCHASE PENSON PLAN

A motion was made by Councilman Peterson and seconded by Councilwoman Baroway, to adopt Resolution 2010-7 reappointing Carol Kesselman to the Lakewood Employees Money Purchase Pension Plan, for a term commencing February 9, 2010 and ending December 31, 2014.

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

There were no public comments regarding the Consent Agenda.

A motion was made by Councilman Paul and seconded by Councilwoman King, to approve Council Minutes, accept all minutes for Boards and Committees, order all ordinances introduced on first reading to be published in the Denver Post Newspaper for public hearing set for dates included in the ordinances, all of which are included in the Consent Agenda Items, for the record and introduced by the City Clerk.

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

ITEM 10 – ORDINANCE O-2010-1 – AMENDING ARTICLE 5 OF THE LAKEWOOD MUNICIPAL CODE BY ADDING A NEW CHAPTER 5.51 CONCERNING MEDICAL MARIJUANA CARE-GIVER FACILITIES AND AMENDING TITLE 17, ARTICLES 2, 5, 9, 13, 19, AND 22 OF THE LAKEWOOD ZONING ORDINANCE RELATING TO THE LOCATION OF CARE-GIVER FACILITIES

Mayor Murphy noted that this is public hearing on how the City of Lakewood can construct a balanced ordinance to satisfy the needs of legitimate patients while considering the health, safety and welfare of the entire community.

Kathy Hodgson, City Manger, explained the process involved in presenting the “draft” ordinance. A staff team, consisting of the City Manager, the City Attorney, the Director of Planning and Public Works, the City Clerk, the Police Chief, the Finance Director, Information and Technology Department, and the Manager of the Mayor’s Office and City Manager’s office, did extensive research to present the proposed ordinance to Council for its input.

Tim Cox, City Attorney, reviewed major parts of the proposed ordinance. This included the main focus of balancing the needs of legitimate patients with safety/security concerns by tracking Amendment 20, focusing on keeping the facilities crime free, licensing operations of care-givers business facilities, locating said facilities in commercially zoned districts, and dispersing of facilities. He reviewed licensing and zoning requirements.

The noted changes, based on direction from Council at its meeting held on February 1, 2010 included: having a 1000 ft. school buffer; permitting facilities in the Colfax Mixed Use-Neighborhood (CMU-N) District – Colfax fronting parcels only; increasing distance separation of facilities from ½ mile to ¾ of a mile from each other; clarification of licenses only required for operation of care-giver facility business; modify the affect of past felonies to comply with State law.

He noted that for Council’s consideration, staff did additional research for the proposed ordinance that’s consistent with liquor license requirement standards on good moral standing.

The following persons spoke on behalf of their respective neighborhoods:

Kathi Hasfjord, 5786 W. 8th Avenue, Lakewood, CO, Two Creeks Neighborhood,

Beth Wicht, 1095 Garrison, Lakewood, CO, Eiber Neighborhood;

Linda Sundine, Morse Park Neighborhood Association.

The three neighborhood groups listed above (representing the North Lakewood Neighborhood Coalition) are in support of the proposed licensing requirements addressed in the ordinance and the Crime Prevention Through Environmental Design Requirements. They also suggested the following changes; spacing to be increased from ½ mile to ¾ mile; school boundaries to be 1,000 feet from any public or private school; Colfax Mixed Use Zone placement from CMU-R and CMU-C areas plus Neighborhoods to CMU-Roadside and Community sub-districts only; in regards to City borders, going from recognizing City borders in determination of spacing to not recognizing City borders and recognition of current operating dispensaries in other City jurisdictions when determining spacing of these facilities.

Walt Queen, 1385 Carr Street, Lakewood, CO, commended Council on doing a great job with the proposed ordinance. He feels that allowances for “growing” facility (businesses that grow marijuana) needs to be addressed.

Steve Meadows, 9100 W. 20th Avenue, Lakewood, CO, is not in favor of regulating medical marijuana. He feels it would be “cheaper” for patients to get their marijuana “off the streets”.

Barbara Barry, P.O. Box 25, Golden, CO 80401, feels there are key points regarding location that are important in the ordinance. Also, the criteria need to be reinforced and she wants protective language to be in the ordinance.

Rena Shriener, Lakewood, CO, feels that more information is needed so that public opinion can be given on each facility.

Jesse Morehouse, 11500 W. Colfax Avenue, Lakewood, CO said he is not in the Colfax Mixed-Use District but in the Transit Mixed-Use District and he is O.K. with the proposed ordinance.

Adam Lozowick, 9699 W. Colfax, Lakewood, CO said he wants to be given the opportunity for relocation rights and clarification on the path of travel distance.

Ron Podboy, 1444 Stuart, Denver, CO, representing Rocky Mount Wellness Center, said he supports the modified proposed ordinance regarding felonies, which is in harmony with State liquor license requirements. He wants Council to “grandfather in” facilities that have been operating in good faith, if they qualify in all other aspects.

Daniel Byers, 1890 E. 84th Avenue, Denver, CO, has concerns about “growing facilities”. Also, he wants Council to consider Colfax Mixed-Use Neighborhood (CMU-N) District.

Leon Colquette, 1455 Balsam Street, Lakewood, CO, has concerns about the cost to operate and personal privacy.

Jeff Gates, 85 S. Union, Lakewood, CO, noted that due to transportation needs of patients, the distance between dispensaries should be 1000 feet instead of $\frac{3}{4}$ of a mile.

Warren Edson, 2801 E. Colfax #201, Denver, CO, representing various medical marijuana providers, feels the proposed ordinance works, but has a few concerns, i.e., can a patient grow his/her own medicine, and are there allowances for caregivers who have five or less patients? Also, is there a delivery system in place and what is involved in the application process?

Eric Smith, 8100 W 19th Avenue, Lakewood, CO, wanted to know what effect, in regards to zoning, would the dispensaries have on neighborhoods that border Colfax Avenue.

David Mentzer, 5660 Alameda, Lakewood, CO, spoke about the distance issue. He feels that economics will dictate the distance dispensaries should be apart. He feels that some should be ‘grandfathered in’.

Gerald Lopez, 1257 Allison, Lakewood, CO, said he’s all for medical marijuana, but the neighborhoods need to be cleaned and Colfax Avenue should be made clean and safe. Also, the City of Lakewood should prepare its own codes and not copy from Denver or any other cities.

Dino Salvatore, 1630 Carr Street, Lakewood, CO, said he’s O.K. with the proposed ordinance. He operates Rocky Mount Wellness Center and invited Council and audience to visit his facility.

Anthony Schnider, 17th and Kipling, Lakewood, CO, has concerns about zoning. He wants Green Meadows to be included in the proper zoning. They are a legal non-conforming entity and he does not want the business to be taken away.

Public comments were closed.

A motion was made by Councilman Paul and seconded by Councilwoman King, to adopt Ordinance O-2010-1 on second and final reading.

A lengthy question-and-answer session ensued. Points to note included:

- * There are only two legal non-conforming dispensaries in Lakewood.
- * Tenants cannot initiate rezoning – owners have to do it for entire building.
- * Medical marijuana facilities in Lakewood can open even if there is a dispensary across the street in Denver.

- * “Growing” only facilities are not permitted in any District in Lakewood.
- * Unlawful to deliver marijuana to non-patients.
- * The proposed ordinance does not affect patient/care-giver relationship as noted in Amendment 20. The proposed ordinance regulates businesses that want to provide medical marijuana to patients.
- * If the proposed ordinance is adopted by Council, Care-givers must meet requirements outlined therein.
- * Distance measurements are from property line to property line.

Margy Greer, City Clerk, read a list of potential amendments to the proposed Medical Marijuana Care-giver Facilities Ordinance. Council discussed each proposed motion.

It is the opinion of the City Attorney that with the proposed amendments (list follows) the ordinance would be legally defensible.

A motion was made by Councilman Paul and seconded by Councilwoman King, to amend Ordinance O-2010-1 by adding a new Subsection D to Section 5.51.040, making it unlawful to operate, or to cause or permit the operation of, a Care-giver Facility within one thousand feet (1,000') of any elementary, middle or high school, or any athletic facilities associated with such schools, regardless of the jurisdiction in which the school is located. For the purposes of this Section, the minimum distance shall be measured in a straight line, without regard to intervening structures, from the nearest property line of any Care-giver Facility to the nearest property line on which the school or athletic facility is located.

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

A motion was made by Councilman Paul and seconded by Councilwoman King, to amend Ordinance O-2010-1 by adding to Subsection 17-9-6(1)(a) of the Zoning Ordinance “Care-giver Facilities” as a permitted use in the Colfax Mixed Use-Neighborhood subdistrict, only on properties with frontage on Colfax Avenue, subject to the spacing and licensing requirements of the Ordinance.

Vote: Ayes: 8 Nays: 3 (Allen, Stack, Wiechman) The motion passed.

A motion was made by Councilman Paul and seconded by Councilwoman King, to amend Ordinance O-2010-1 by revising Section 5.51.040(B) to increase the minimum separation between Care-giver Facilities from ½ mile to ¾ of one mile.

Vote: Ayes: 10 Nays: 1 (Stack) The motion passed.

A motion was made by Councilman Paul and seconded by Councilwoman King, to amend Ordinance O-2010-1 by revising Section 5.51.010, Purpose, to read as follows:

A. It is the purpose of this Chapter to adopt reasonable regulations governing the operation of medical marijuana dispensaries, referred to herein as "Care-giver Facilities," consistent with the provisions of Amendment 20 and the statutes and administrative regulations implementing Amendment 20, including:

1. Requiring that any business dispensing medical marijuana pursuant to Amendment 20 be operated in a safe manner that does not endanger the public welfare;

2. Mitigating potential negative impacts that Care-giver Facilities might cause on surrounding properties and persons; and

3. Establish a non-discriminatory mechanism by which the City can control, through appropriate regulation, the location and operation of Care-giver Facilities within the City.

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

A motion was made by Councilman Paul and seconded by Councilwoman King, to amend Ordinance O-2010-1 by amending the definition of Care-giver Facility to read in full as follows: "Care-giver Facility" means a business operated by a Primary Care-giver on any property or in any structure within the City for the purpose of cultivating, processing, preparing, distributing, transmitting, dispensing, or otherwise providing marijuana in any manner or form to patients in accordance with Amendment 20 and the implementing state statutes and administrative regulations.

Vote: Ayes: 11 Nays: 0 The motion passes unanimously.

A motion was made by Councilman Paul and seconded by Councilwoman King, to amend Ordinance O-2010-1 by amending Section 5.51.140 to read in full as follows:

5.51.140 Unlawful acts. It shall be unlawful for any licensed Care-giver to:

A. Consume or allow any other person to consume, inhale, or ingest any marijuana or product containing marijuana on, or within, the premises of a Care-giver Facility.

B. Distribute, sell, or transfer any marijuana or any product containing marijuana at a Care-giver Facility or by way of delivery from a Care-giver Facility to anyone other than a patient or to a Primary Care-giver who is the parent of a minor patient;

C. Dispense more than the amount of medical marijuana permitted under the provision of Amendment 20 and/or the statutes or administrative regulations implementing Amendment 20;

- D. Store or display any marijuana or product containing marijuana outdoors, or in a manner in which it is visible from a public sidewalk or right-of-way;
- E. Operate a Care-giver Facility earlier than 8 a.m. or later than 9 p.m. the same day. A Care-giver Facility may be open seven (7) days a week;
- F. Allow the possession of marijuana or any product containing marijuana in a Care-giver Facility by anyone who is not a Primary Care-giver or patient;
- G. Sell or allow any person to consume alcohol on the premises of a Care-giver Facility;
- H. Cultivate, process, or store marijuana at any location within the City of Lakewood other than at the Care-giver Facility; or
- I. Violate any of the provisions of Amendment 20, or the statutes or administrative regulations implementing Amendment 20.

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

A motion was made by Councilman Paul and seconded by Councilwoman King, to amend Ordinance 0-2010-1 by amending Subsection (A)(3) of Section 5.51.070 to read in full as follows: Is not of good moral character at the time of the application as evidenced by a conviction of a felony or other offense involving moral turpitude, after giving consideration to the pertinent circumstances connected with such conviction.

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

A motion was made by Councilman Paul and seconded by Councilwoman King, to amend Ordinance 0-2010-1 by adding a new Subsection J to Section 5.51.140, making it unlawful for the operator of a Care-giver Facility to “employ any person under the age of eighteen (18) years old.”

Vote: Ayes: 11 Nays: 0 The motion passed unanimously.

A motion was made by Councilman Paul and seconded by Councilwoman King, to adopt Ordinance O-2010-1 as amended.

Vote: Ayes: 10 Nays: 1 (Stack) The motion passed.

Kathy Hodgson, City Manager, noted that the next steps that will be taken regarding medical marijuana are to send out letters to sales tax license applicants, have Care-giver Facility applications available by February 10, 2010; and conduct a Care-giver Facility Licensing Meeting on February 18, 2010 at 5:00 p.m. in the City Council Chambers. She noted that applications will be accepted in the City Clerk's Office, but not before March 29, 2010.

She also noted that John Camper was offered and has accepted the Police Chief position in Grand Junction. The City of Lakewood has received reimbursement for services rendered by Chief Camper from Grand Junction.

ITEM 11 – GENERAL BUSINESS

None.

ITEM 12 – REPORTS

Mayor Murphy and City Council Members reported their attendance at previous meetings and events and announced upcoming neighborhood meetings and events.

ITEM 13 – ADJOURNMENT

There being no further business to come before the Council; Mayor Murphy adjourned the meeting at 10:00 p.m.

Submitted by:

Margy Greer, City Clerk