

TOWN OF BENNETT, COLORADO
BOARD OF TRUSTEES
Regular Meeting
March 24, 2015

1. CALL TO ORDER

The Board of Trustees of the Town of Bennett met in regular session on Tuesday, March 24, 2015 at the Bennett Town Hall, 355 4th Street, Bennett, Colorado. Mayor Sue Horn called the meeting to order at 7:00 p.m. The following persons were present upon the call of the roll:

Mayor: Sue F. Horn

Trustees Present: Charles Bayley
Darvin Harrell
Grider Lee
Jim Pieters
Royce Pindell
Larry Vittum

Staff Present: Melinda Culley, *Town Attorney, Light, Kelly, P.C.*
Trish Stiles, *Town Administrator*
Lynette F. White, *Town Clerk*

Public Present: Linda Burry, Carol Swanson, Pat Siegman, Irma Ronquillo, Cesar Ronquillo,
Nichole Harrell, Amanda Cronk, Steven Vetter, Cheryl Morales

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Sue Horn.

3. APPROVAL OF AGENDA

TRUSTEE BAYLEY MOVED, TRUSTEE VITTUM SECONDED to Remove 7. Town Staff Reports and 8. Trustee Comments and Committee Reports. The agenda was approved as amended. The Mayor declared the motion carried by unanimous vote.

4. CONSENT AGENDA

TRUSTEE BAYLEY MOVED, TRUSTEE VITTUM SECONDED to approve the consent agenda as presented. Voting was as follows:

A. Approval of Minutes

1. Action: Approve Regular Meeting minutes of March 10, 2015

B. Contracts

1. Professional Services Contract – FEI Engineers, Inc.

C. Resolutions

1. Action: Approve Resolution No. 587-15, A Resolution Supporting the Grant Application for the Energy and Mineral Impact Assistance Program Application from the Department of Local Affairs for the Town of Bennett Planning Design Engineering of Wastewater Treatment Facility

5. **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

There were no comments from the public in attendance.

6. **REGULAR BUSINESS**

A. **Public Hearing**

1. **Case No. 15.01CM – Amendment to Chapter 16 of the Bennett Municipal Code concerning the Cultivation of Medical and Personal Use Marijuana in Residential Areas**

Mayor Sue Horn called the matter of Case No. 15.01CM to order, a public hearing on an ordinance amending Chapter 16 of the Bennett Municipal Code to adopt regulations concerning the cultivation of marijuana in residential areas. The public hearing was opened at 7:05 p.m.

Lynette White, Town Clerk, stated that in accordance with State statute, notice of the public hearing was properly posted and published in the Eastern Colorado News as Legal No. 1803, on February 27, 2015.

Melinda Culley, Town Attorney, provided the following staff report and reviewed the ordinance provisions.

The Planning Commission held a public hearing on the ordinance on March 16. By a vote of 3-1, the Planning Commission recommended approval of the ordinance. By separate motion, which passed by a 3-1 vote, the Planning Commission also recommended that Section 16-21-30(a)(7)(iv) of the ordinance regarding the setback requirements for garages and accessory structures be revised. The proposed ordinance increases the rear and side setbacks from 5 feet to 10 feet for garages and accessory structures where marijuana is being cultivated. A majority of the Commissioners present believed that 5 foot setbacks should apply. Should the Board wish to accept this proposed revision, a friendly amendment can be made in connection with a motion on the ordinance.

As has been previously discussed in the Board's study sessions, the ordinance was drafted in accordance with Board direction and with input from the Town's Police Committee, consisting of Trustees Bayley and Vittum; Town staff, including Ms. Stiles and Ms. Merkle; the Bennett Fire Protection District; and the Town Attorney's office. The ordinance was also provided to the Adams and Arapahoe County Sheriffs' offices for comment.

The Town has previously banned commercial medical and retail marijuana operations, including optional premises cultivation operations, medical marijuana centers, medical marijuana product manufacturing facilities, retail marijuana cultivation facilities, retail marijuana stores, and retail marijuana products manufacturing facilities. The purpose of this ordinance is to adopt regulations regarding marijuana cultivation in residential areas by patients, primary caregivers and persons 21 years and over. Some of the significant provisions of the ordinance are as follows:

- Requires marijuana plants to be cultivated exclusively within: (1) a primary residence; or (2) in a garage or accessory structure of a detached single family dwelling unit. The ordinance defines the term "primary residence."
- Prohibits marijuana from being cultivated in any area outside the exterior walls of the primary residence, garage or accessory structure.

- Limits the space in which marijuana can be cultivated to a defined and contiguous area not exceeding 32 square feet and 10 feet in height. This limit applies regardless of how many patients, primary caregivers, or persons 21 and over live in the residence.
- Requires the person cultivating the marijuana to live in the primary residence where the marijuana is cultivated. If you live in a rented space, you must have permission from your landlord to cultivate marijuana.
- The area where cultivation occurs must be enclosed and locked. The ordinance includes more stringent requirements when persons under 21 live in the residence.
- When marijuana is cultivated in a garage or accessory structure: (1) it must be constructed of rigged wood, sheet rock or other construction materials strong enough to prevent entry; (2) greenhouse film is not a suitable construction material; (3) a building permit is required; and (4) they must have rear and side setbacks of at least 10 feet.
- Prohibits marijuana from being cultivated in the common areas of two-family, multi-family and attached dwellings.
- Prohibits light pollution, excess noise and undue traffic due to marijuana cultivation.
- Prohibits smells or odors from marijuana cultivation capable of being detected from adjoining lots or rights-of-way. Requires two unrelated witnesses to file a complaint before a summons and complaint is issued for an odor violation.
- Restricts the types of grow lights that can be used for cultivation.
- Prohibits the use of chemicals to extract THC and prohibits the use of flammable gases, including butane, propane and hexane, in marijuana processing.
- Allows the Town to get inspection warrants to enter into areas where marijuana is cultivated to ensure compliance with the ordinance.
- Includes a declaration that marijuana cultivated in a manner that does not comply with the ordinance constitutes a public nuisance.
- Requires notice to the Town before any legal challenge to the ordinance.

Analysis

Amendments 20 and 64 allow patients, primary caregivers and persons 21 years and older to grow and possess up to six marijuana plants, with three or fewer being mature, flowering plants. Patients and primary caregivers may possess and grow larger quantities if necessary to address a patient's debilitating medical condition. Neither Amendments 20 nor 64 exempt persons cultivating marijuana from local regulation.

Cheryll Morales, 750 Third Street, Bennett, CO addressed the Board and advised she is a retired police officer and a medical marijuana license holder and caregiver. Ms. Morales spoke on the benefits of medical marijuana and the number of plants allowed growing in a residential area.

Mayor Horn closed the public hearing on an ordinance amending Chapter 16 of the Bennett Municipal Code to adopt regulations concerning the cultivation of marijuana in residential areas at 7:30.p.m.

TRUSTEE LEE MOVED, TRUSTEE VITTUM SECONDED to adopt Ordinance No. 649-15, an ordinance amending Chapter 16 of the Bennett Municipal Code to adopt regulations concerning the cultivation of marijuana in residential areas and to remove 16-2-550, Subsection 7 (iv). Voting was as follows:

YES: Horn, Harrell, Lee, Pieters, Pindell, Vittum, Bayley

NO: None

The Mayor declared the motion carried by unanimous vote.

The Mayor declared a recess at 7:40 p.m., the meeting was resumed at 7:45 p.m.

B. Action/Discussion Items

1. RFP 15-001 – Town Hall Copier Bid

Trish Stiles, Town Administrator, reviewed Town of Bennett RFP 15-001, requesting bids for a color copier, scanner, and fax machine with maintenance. Ms. Stiles reviewed the bids received for consideration and presented to the Board the option of purchasing the copier instead of a lease agreement.

By unanimous vote the Board of Trustees approved the direction provided by Town Staff to move forward with the purchase of the Konica Minolta Copier for Town Hall.

7. ADJOURNMENT

TRUSTEE PINDELL MOVED, TRUSTEE PIETERS SECONDED to adjourn the meeting. The Mayor declared the motion carried by unanimous vote. The meeting was adjourned at 8:10 P.M.



Lynette White
Lynette White, Town Clerk

Sue F. Horn
Sue F. Horn, Mayor