

**CITY OF CENTRAL
CITY COUNCIL MEETING
February 19, 2013**

CALL TO ORDER

A regular meeting of the City Council for the City of Central was called to order by Mayor Engels at 7:04 p.m., in City Hall on February 5, 2013.

ROLL CALL

Present: Mayor Engels
Alderman Spain
Alderman Voorhies
Alderman Gaines
Alderman Heider

Absent: None

Staff Present: Manager Lanning
Attorney McAskin
City Clerk Bechtel
Finance Director Flowers
Operations Director Kisselman
Utilities Superintendent Griffith
Police Chief Krelle
Fire Chief Allen

The Pledge of Allegiance was recited by all present.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA

The agenda was approved as presented.

CONFLICTS OF INTEREST

No Council Member disclosed a conflict regarding any item on the agenda.

CONSENT AGENDA

Alderman Spain moved to approve the consent agenda containing the regular bill lists for February 7 and 14, 2013 and the City Council minutes of February 5, 2013. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

PUBLIC FORUM/AUDIENCE PARTICIPATION

No one requested time to address the Council.

SECOND READING AND PUBLIC HEARING

Ordinance No. 13-02: *An ordinance amending Sections 10-21 and 10-22 of Chapter 10 of the Municipal Code regarding marijuana and marijuana accessories.*

Ordinance No. 13-03: *An ordinance amending Chapter 16 of the Municipal Code regarding the regulation of marijuana cultivation for personal use in residential structures.*

Attorney McAskin gave the background on both ordinances as follows:

The City Council is being asked to consider two ordinances regarding necessary changes to the Municipal Code to implement the provisions of Amendment 64 regarding personal possession of marijuana and marijuana accessories.

As the proposed ordinances concern personal use, rather than the retail sales of marijuana, there is likely no financial gain to the City in terms of the collection of fees or taxes. It is not known at this time if the legalization of small amounts of marijuana will negatively affect the City in terms of enforcement.

In the November, 2012 general election, Colorado voters approved an amendment to the state Constitution, Article XVIII, Section 16 of the Colorado Constitution that makes the personal possession and use of one ounce or less of marijuana for adults twenty-one (21) years of age or older legal in Colorado (“Amendment 64”). Amendment 64 also allows the possession of up to six (6) marijuana plants for limited home-grow in residential homes by adults 21 years or older and authorizes licensed retail establishments to sell marijuana subject to the Department of Revenue’s adoption of licensing regulations. Retail sales of marijuana cannot occur before the State adopts a licensing scheme on or before July 1, 2013. Moreover, the City is authorized to ban retail sales by ordinance or local vote, similar to medical marijuana.

The purpose of Ordinance Nos. 13-02 and 13-03 is to address the personal possession of marijuana by conforming existing Municipal Code provisions to Amendment 64.

The proposed ordinances do not address retail sale of marijuana as the State has not adopted licensing regulations yet.

Ordinance No. 13-02 amends the current provisions regarding marijuana possession and drug paraphernalia to:

- Define marijuana and marijuana accessories consistent with Amendment 64;
- Legalize possession of one ounce or less of marijuana by adults 21 years or older;
- Prohibit possession of more than one ounce and but no more than six ounces of marijuana (Under state law, up to 6 ounces of marijuana possession is a class 2 petty offense);
- Prohibit purchase or possession of marijuana for consumption by any person under 21 years of age;
- Exempt “marijuana accessories” from drug paraphernalia so as to allow possession of marijuana accessories;
- Prohibit possession/consumption of any amount of marijuana in a public place; and define public place.

Ordinance No. 13-03 amends the zoning regulation the City Council previously adopted concerning residential cultivation of medical marijuana to expand the limitations on number of plants to apply to marijuana, medical or recreational.

For health and safety reasons, as discussed in additional detail below, it is recommended that City Council restrict the number of marijuana plants that may be cultivated within residences located

within the City. While it is understandable that City Council would be reluctant to condone any activity that is considered illegal under federal law, the state constitution now specifically allows some growing to occur within a private dwelling. It is advised that restrictions be placed on this allowance, however, to make the activity as safe as possible, especially given the age of the private dwellings within the City and their historical significance. Such restriction is within the City's police powers.

It is recommended that Ordinance No. 13-03 be adopted in order to restrict the number of plants that may be cultivated, whether for medical or recreational use to twelve (12) plants, to ensure the safety of Central City residents and mitigate negative impacts to neighbors and the surrounding community.

ADDITIONAL BACKGROUND INFORMATION AND DISCUSSION

Indoor marijuana grow operations enable a year-long growing season in which conditions (light, water, nutrients, CO2) may be tightly controlled, resulting in plants with higher THC content. Indoor marijuana cultivation may present significant hazards to persons living in the home as well as City fire department personnel including but not limited to the following:

- **Mold.** A 2012 study coordinated by the Colorado Drug Investigators Association and performed by National Jewish Health determined that because residential structures are not designed to function as greenhouses, contamination by pesticides and fertilizers is more difficult to control, moisture can cause damage to building materials, and excessive mold growth can result¹. The National Jewish Health study concentrated on airborne hazards to law enforcement personnel. Scientists studied mold levels at 24 different Colorado indoor grow operations and found that even smaller grows (11 plants) had elevated levels of Penicillium mold spores². Once mold starts to grow in insulation or wallboard, the only way to deal with the problem is by removal and replacement, according to the CDC. Other hazards that were identified included allowing the distribution of chemicals (e.g. fertilizers and pesticides) to be disbursed through ventilation systems, as well as fires from faulty wiring, overloaded circuits, or heat from high intensity grow lights.
- **Fire.** The most common types of lights used indoor with marijuana are High Intensity Discharge (HID) lights such as High Pressure Sodium (HPS) and Metal Halide (MH) lights. When fully lit, a 1000 watt MH lamp may reach a temperature of 2000 degrees Fahrenheit³. If anything touches the bulbs, fire may easily result. During the first stage of growing indoors, lights are very rarely, if ever, shut off as the plants require light between 18 to 24 hours per day. Often, ventilation of heat and odor are achieved by unauthorized alteration to the building's support structures; **for example**, cutting into foundations or through firewalls⁴. According to some sources, homes containing an indoor marijuana grow are 24 times more likely to catch fire than homes that do not contain an indoor marijuana grow⁵.

- **Danger to City Fire Department Personnel.** Large indoor cultivation operations create not only the danger of fire, but pose more danger to firefighters who can easily get tangled in the electrical cords, pulleys that raise and lower the lights or tables, and yards of ventilation tubing used to ventilate both the plants and the HID lights. Restricting the size of the residential grow to no more than twelve (12) plants will significantly reduce the amount of potential entanglements and may also assist in reducing the overall risk of fire.

Ordinance No. 13-03 amends Chapter 16 of the Municipal Code in order to clarify that the restriction on the number of marijuana plants applies regardless of whether the plants are being grown for medical or recreational use.

Mayor Engels opened the public hearing at 7:15 p.m. for Ordinance No. 13-02 and invited comment. Ricky Richards, 221 Pine Street clarified that these regulations do not apply to Medical Marijuana. Mayor Engels closed the public hearing at 7:17 p.m.

Alderman Gaines moved to adopt Ordinance No. 13-02: An ordinance amending Sections 10-21 and 10-22 of Chapter 10 of the Municipal Code regarding marijuana and marijuana accessories. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Mayor Engels opened the public hearing at 7:26 p.m. for Ordinance No 13-03 and invited comment. Hearing none, he closed the public hearing at 7:26 p.m.

Alderman Voorhies moved to adopt Ordinance No. 13-03: An ordinance amending Chapter 16 of the Municipal Code regarding the regulation of marijuana cultivation for personal use in residential structures. Alderman Spain seconded, and without discussion, the motion carried unanimously.

NEW BUSINESS

Volunteer Firefighter Pension Board Update

Finance Director Flowers gave the background as follows:

In accordance with C.R.S. 31-30-1119, the Volunteer Firefighter Pension Board is required to report to Council on the status of the pension funds over which the Board presides. The volunteer firefighter pension is held and managed by the Fire & Police Pension Association (FPPA). The City receives a quarterly statement detailing the earning/losses and benefit expenses of the fund. Further, FPPA performs an actuarial study on the pension fund every other year to ensure that the fund is sustainable given the number of volunteers who are eligible to participate and the level of annual contribution from the City.

As of December 31, 2012 the ending balance in the pension fund was \$463,879.35. The fund paid out pension benefits in the amount of \$18,441.94 over the course of the year and FPPA's investment of the funds earned a total of \$47,879.35. As of the 2011 Actuarial Study (most recent available) the pension fund had adequate levels of contributions from the City and State to provide for the needs of the plan.

The City contributed \$7,600 to the pension plan in 2012 and received a state grant in the amount of \$6,418 that was also contributed to the plan.

In the Council packet is the year ending statement for the fund as of December 31, 2012 detailing the earnings and expenses for the year. Also included in the packet is the Executive Summary from the

2011 Actuarial Study detailing the plan's valuation and solvency. A 2013 Actuarial study will be performed by FPPA during the 1st and 2nd quarters of 2013.

The pension plan provides volunteer firefighters with benefits as shown in the attached Actuarial Valuation Information Checklist. C.R.S. 31-30-1119 requires that the pension board make a report to the City Council on the condition of the pension fund by the last meeting in February and August of each year. This report satisfies this requirement. No action is required. This presentation is for informational purposes and to satisfy C.R.S. 31-30-1119.

STAFF REPORTS

Manager Lanning reported the following:

February 21st work session for visioning – set by Council consensus

CDOT update for Twin Tunnels Project – the Central City Parkway exit will only be closed for 10 days instead of the proposed 30 days with CDOT working around the clock to get it reopened

Planner 1 position – goal is to have the new person started by April 1

Alderman Voorhies thanked staff for managing the water calls on bills and Operations Director Kisselman and Water Superintendent Griffith for working with residents to solve any reading issues.

COUNCIL COMMENTS

Alderman Voorhies stated she would be absent for the March 5th and April 16th meetings.

Alderman Gaines thanked staff for the BID for the informative parking garage meeting. There seems to be some palatable options to consider.

Alderman Heider suggested a tour of the Communications center with the Gilpin County Sheriff.

PUBLIC FORUM/AUDIENCE PARTICIPATION

No one requested time to address the Council.

Hearing no further business, Mayor Engels adjourned the meeting at 7:40 p.m.

The next Council meeting is scheduled for March 5, 2013 at 7:00 p.m.

Ronald E. Engels, Mayor

Reba Bechtel, City Clerk