

DRAFT

**TOWN OF ARRIBA
BOARD OF TRUSTEES PUBLIC HEARING
for proposed amendments to the Marijuana Ordinance #138
Monday, February 8, 2016**

Arriba Town Hall, 711 Front Street, Arriba, CO 80804

Call to Order

Mayor Pro-tem Troy McCue called the hearing to order at 7:10.

Board of Trustees in attendance were: Karen Kovar, Jody Schiffers, Caleb Brent and Marcella Flores.

Public Audience included: Sign in Sheet is attached to these minutes.

Mayor Pro-tem McCue said due to the large audience anyone wishing to speak would need to sign in on the clipboard being passed around.

Discussion Mayor Pro-tem McCue explained that the Town has been operating under a moratorium that still has some time left on it, but it became necessary to go ahead and move forward with a permanent prohibition of marijuana. It's been the opinion of the Board to be in line with the Lincoln County prohibition on marijuana as well as with neighboring towns.

Lindsey Michal said that she was in favor of keeping the marijuana ordinance carrying it into an indefinite, speaking from a medical perspective she said she knows there are options for use of it in medicinal ways, but that it is not something we want in our school districts and town, as community members.

Mayor Pro-tem McCue said that there has been nothing formal come to the board about opening a marijuana shop in Arriba. He said that in September of 2014 the Board passed Ordinance #138 but there was a group of citizens that said let the Town at least revisit it in three years so the deadline for the moratorium is October 15, 2017. Mayor Pro-tem McCue said that Trustee Will Rowe helped put together some language and pushed for this ordinance to make it permanent, instead of having to revisit the timeline. Mayor Pro-tem McCue read the proposed ordinance that would amend Marijuana Ordinance #138 out loud (the proposed ordinance making the amendments is attached to these minutes).

Jeff Fike asked why the Town doesn't have a municipal court to enforce the ordinance. He asked if the ordinance was going to go to a vote of the people on the ballot. Mayor Pro-tem McCue said no it wasn't. Jeff Fike asked why not. Mayor pro-tem McCue said that if the ordinance passes tonight it will take effect within 30 days of the publishing. Jeff Fike said aren't you modifying a Colorado constitutional amendment in either 12 or

64? Just like when you did the term limits that also was referred by the Board to a public vote, do you recall? You did it, you were the Mayor. Jeff Fike said that he just wondered if this was also going to go to a public vote, and if not, why not?

Mayor Pro-Tem McCue said that he knew the action that the Board was taking on this ordinance is done at the Board level, that's why the Board is taking it just like the moratorium earlier and very similar action that was taken by other municipalities in Lincoln County.

Jeff Fike said that he'd done research on the subject, it was supposed to be done under the moratorium but he just did it on his own, he said he found some things he doesn't like at all. He said first of all on the retail side selling in the store, then you what we all don't want which is the criminal element that comes with it, then on the other side like he was mentioning like a wholesale grow that was recently tried in the city of Walsenburg which he said he was very familiar with and what happened there was everybody got into the big pot deal so even the Budweiser distributorship sold his distributors, put about 30 people out of jobs, took his buildings filled them up with pot and so did the surplus store and so did about everybody but the Safeway, so it had kind of the opposite effect, the difference between Alamosa and Arriba is Alamosa had businesses to begin with and Arriba doesn't have a lot.

Tami thanked the Board for taking the time to hear people. She said she would like to read some statistics on marijuana. Since the legalization of less than an ounce of marijuana on December 6th 2012, Seattle has seen unprecedented increase in property crimes defined as burglary, motor vehicle theft and larceny, in 2012 there were 32,000, in 2013 37,000, and in 2014 41,000. She said property crimes have increased more than a quarter in the 2 years following legalization with motor vehicles thefts up by more than 50%. Closer to home in Denver findings from Metropolitan State University, in 2012 there were 56,000 crimes, in 2013 an increase of 29,000 to 73,000 crimes, and another 15% to 84,000 in 2014. Science informs us that there are serious problems with marijuana usage, there is recently a book written about marijuana harming America. The authors state that because the marijuana industry is well funded and organized they are winning their game. Mostly because the general public is not well informed and proponents often misrepresent the facts on the legalization. Pot that was common many years ago contained around 5% THC, that's what makes you high, and now in the dispensaries in Colorado it is often as much as 30%. She said that teen usage in Colorado is at 28%. Nationally it is at 18% so we have higher than normal teen usage. Those are the years most critical for brain development, so why would we want to expose teens to those problems. There are already enough problems with alcohol, prescription drugs, already some of the recognized problems with pot use are impaired driving, poor memory, inability to learn, problem solving, short attention span, anxiety attacks, depression, delusions, hallucinations, breathing problems, cancer, infertility, birth defects, damage to the immune system, loss of IQ, and potential addiction. Tami said she would ask that the Board continue to prohibit marijuana in Arriba.

Captain Michael Yowel from Lincoln County Sheriff's Office introduced Sheriff Tom Nestor and Under Sherriff Gordan Noll of the Lincoln County Sheriff's Office, Chief Lynn Yowel of the Limon Police Department, and Under Sherriff Rob Furrow from Kit Carson County Sheriff's Office. Captain Yowl said he wanted to talk about expanding the marijuana laws and how they were all opposed to expanding the marijuana laws. They would just assume ordinance #138 would go indefinite

Sherriff Nestor said that DUI cases have increased in Lincoln County, they've had increase of arrests for illegal possession for transport of marijuana, most of these have been from out of state, last year they had two high speed chases, one in particular was over 300 hundred pounds of marijuana that he was involved with. This year is no different, they've already have had loads of marijuana, these people from out of state come here and get this marijuana from different places, take it out of state because they can make more money. There was an arrest recently for over 50 pounds and it's just a problem. These people go to different distributors and get loads of marijuana and they take it out of town. He said money for the sales of marijuana is mostly done in cash, banks won't hold this, with these kind of issues if a shop were opened up here you'd take the chance of getting robbers or burglaries, because of the cash and the marijuana on the premises.

Sherriff Nestor said that he has 5 patrol officers for 2600 square miles. He said if he's got a deputy at Rush it's going to take him an hour to get here. He said these guys meet with sheriffs from surrounding states at conferences, these guys are getting hammered from Colorado right now, people have to drive to the Front Range to get their marijuana which doesn't make it any better other than the personal grows people are allowed to have, they have a lot more officer to deal with any robberies and crimes involved with these shops. He said if we legalize this and put a shop in Arriba, Colorado you've got everybody from Nebraska and Kansas coming out here to get there marijuana because they don't have so far to drive and then we're going to have to deal with the Nebraska and Kansas officers that are getting hammered already. He said they were unanimously opposed to this. He said that he was sure Kit Carson County has dealt with this as well.

Under Sherriff Rob Furrow Said absolutely, and they've had the same staffing issues and obviously Arriba is not in his jurisdiction, but 4 miles down the road is, and a lot of times they're shorthanded and they have one person on, obviously Kit Carson County does help Lincoln County out because there is just a few of them, if he has someone in Burlington coming here to help it's an hour to get here. So they whole heartedly agree with Lincoln County and oppose this because they are so close.

Chief Lynn Yowel said this just came out in January 2016 the legalization of Marijuana and what it's done in the State of Colorado the past 4 years, they did a study from 2011 and 2012 when medical marijuana came about and then moved it to 2013 and 2014 when it became recreational. He said that marijuana users 12-17 year-old kids increased by 20% in a 4 year period. He said college age kids in Colorado from 18-25 there's been an

increase of 17% and its 42% higher than the national average just in Colorado college age students. He said adults 26 yrs. and older its 104% higher than the national average and it's a 51% increase from 2011. He said the State of Colorado is leading on the marijuana deal right now in every category possible and that goes from age 12 to age 26 and older.

Captain Yowl said that one of the trends they see -and this truly is the gateway- this isn't the buys, sell, transport, but they're seeing the pursuit that was referenced- the kid had an automatic oozy with him. He said they finally got him stopped when he ran out of gas but he had an oozy and a load of dope with him, and that is what we're bringing in- that's the potential here. He said he would love to be able to tell everyone that that's not going to happen but the bottom line is they can show it on paper all day, these loads of dope is just the scratch of the surface to the property crimes, burglaries, robberies, weapons violations high speed chases- all things that nobody likes but that's a trend and that's the facts and that's where we're at.

Will Rowe he said that he was one of the people who urged the Board not to throw in a permanent moratorium at the time but he thought that the past year and a half has put the Town in a very different position, Arriba is now sitting as the only Town on the I-70 corridor between Denver and the Kansas border that does not have a permanent moratorium. He said he thought if we put something in here or leave this door open will result with us becoming the target area, like the officers said we will then become the magnet area for Nebraska or Kansas or anything else. He said he didn't think that was a situation they we want. He said practically, in this town we don't even have a sales tax Dj's doesn't pay a sales tax, we don't have the infrastructure, the governmental regulation or capacity to deal with this in anyway. He said his viewpoint is that we have a pretty good little Town but we can't come together on trash or anything else, he didn't know how in the world we're going to manage something that drops a nuclear bomb in terms of dealing of marijuana. He said of course people are still going to be able to smoke, they're still going to be able to have that right, and this is simply going to follow along with moratoriums consistent by the majority of towns. He said he would encourage us to leave this problem to places that have put stuff in place to deal with it, which we don't have.

Jack Degerlia said that with no sales tax Arriba will benefit zero.

Brian Milburn said that he works at the prison in Limon, the department of corrections. He said that years ago he handled a dope dog through the county on a limited capacity. He said that he and his dog were the 2007 narcotic detection team of the year for Colorado State k9 Associations so he has a little bit knowledge of what's going on here. The law enforcement brought up the fact of the illegal drug trade and the weapons that go along with it. He said fact is we've had these things prior to marijuana being legalized. He said he was not saying he was for it or against it. He said that we tend to bury our heads in the sand, there are people selling marijuana, methamphetamines and other drugs right here in this town every day. He said we all know who they are and if we think we're

going to block that simply by blocking this issue it isn't going to happen. He said he commends everyone for coming out tonight but this isn't going to stop it, what this would do- he said again he was not for it or against it- this would regulate it a little bit. He said talk about how we're not supposed to have marijuana grow in the city limits- he asked if the mansion was in town. Mayor Pro-tem McCue said no it's never been annexed. Brian Milburn said well we're growing it right outside of town and this is another thing we're just not controlling it and don't get the idea that this will.

Andy Jones said that he didn't have anything to add but he wasn't in favor of it.

Jake Michal said as a parent that he was deeply opposed to not approving this ordinance. He said there are too many temptations in our society for young adult to acquire marijuana or other drugs necessary to do that and for young adults there are too many no tolerance policies for schools and employers where they may experience some stupid mistake as a young kid getting a hold of marijuana and have it follow them the rest of their life. He said as a parent maybe our efforts are in vain here but I think I'm going to try to make every effort possible to eliminate those possibilities of temptation our kids can obtain a drug that may affect them for the rest of their lives just making a stupid mistake as a kid.

Chris Davis said that sales tax has already been covered and cost for Lincoln county has been covered pretty well.

Louise Skipper said she didn't know what the Board was doing with the pot thing right now. She said we need to worry about the municipal court, we do not have our 3rd part of our government.

Tyler Andersen said that from what occurred tonight he sees absolutely no reason to put this to a vote of the people. He said additional expenses you're going to incur by having to have a vote and everything and he thinks it's pretty clear here that some odd percent are in favor of passing #138 eliminating marijuana sales.

Jonathan Hart said that he was with Tyler Andersen on that thought, he said we've voted for a Board for a reason and we communicate with the Board to know our views. He said a lot of people have shown interest to you that we do not want marijuana in the Town. He said I would just like to say please keep in mind that we do not want it in this town. He said my last thought would be that Jeff Fike does not represent my political views.

Jeff Fike said Jonathan, you don't represent mine either so thank you. He said that he was quite curious because he tried to do some research and he's even gone down to the sheriff's office to talk to him, but he's pretty busy fella, but the whole idea was research, the idea was if you look at the service there are supposedly bazillions of dollars from tax money from retail marijuana, but like the sheriff said there are two sides to that coin so

he did some research. He said it turns out that it would be the last thing that I would want in Town. He said the piece I didn't have information on is what the sheriff and everybody brought in tonight but I would just love to know where the idea came from- it started with some rumor- about opening a pot store at Audine's, and I believe the source might be right here in this room if they'd be so bold to identify themselves, but at any rate I think- well let's just have a show of hands how many people do not want to see pot- don't want to see retail marijuana- and I would be with you guys.

He said now how many people do want to see it. He said I just think that we should all have the right to vote on it, because likes it been brought to my attention by Jake Michal there's 135 of us, but I don't see personally any issue and I'm not going to carry anybody else's water other than on the "people's ordinance". He said so that's all I had but I was trying to do some research on the subject, but like I said Alamosa, destroyed that town Denver over off of parker road has turned into an absolute nightmare because you're sitting right there on the border between Denver and Arapahoe county so you see all these thugs that's coming in from God knows where, out of state just like the sheriff said, and the last thing I'd like to do is see that in Arriba so that's all I have, thank you.

Kenny Mills said we need sales tax in Arriba and he'd like everybody in Arriba to start thinking about that. He said it's only a few pennies out of every dollar, it's not going to impact us except it would be a positive influence.

Mayor Pro-tem McCue asked each Board member if they had any questions or comments.

Trustee Karen Kovar moved to close the hearing. Trustee Marcella Flores seconded and the motion passed unanimously.

Mayor Pro Tem McCue ended the Public Hearing for amendments to the Marijuana Ordinance #138 at 7:31.

Submitted by: Josie Hart

Signed by:

Approved by the Board on:

ORDINANCE NO. 141

AN ORDINANCE BY THE BOARD OF TRUSTEES OF THE TOWN OF ARRIBA, LINCOLN COUNTY, COLORADO, TO EXTEND THE TERMINATION DATE OF ORDINANCE NO. 138 CONCERNING THE PROHIBITION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, AND RETAIL MARIJUANA STORES.

Whereas, the Board of Trustees of the Town of Arriba, hereinafter referred to as the “Board”, did on September 8, 2014, pass Ordinance No. 138 which prohibited the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores within the incorporated boundaries of the Town of Arriba, hereinafter referred to as the “Town”; and

Whereas, the Board did provide in the Ordinance that the Ordinance would be effective up through October 15, 2017, unless sooner rescinded or amended; and

Whereas, the Board has since determined that it is in the best interests of the citizens of the Town that the Ordinance remain in effect, indefinitely, until such time as the Board may determine that the Ordinance should be further amended or no longer enforceable;

Whereas, the Board has determined that the provisions for Fines & Forfeitures in Ordinance No. 138 are insufficient to deter and prohibit violations of said Ordinance; and,

Whereas, the Board has determined that the provisions regarding Violation require clarification and expansion and the Town of Arriba should be able to seek Court intervention to stop violations,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ARRIBA, LINCOLN COUNTY, COLORADO:

SECTION I – EFFECTIVE DATE AMENDED.

Upon the adoption of this Ordinance, Ordinance No. 138 shall be amended to provide that the Ordinance shall remain in effect, indefinitely, until and unless amended or rescinded. This Ordinance shall take effect thirty days after publication of this Ordinance.

SECTION II – VIOLATION AMENDED

Upon adoption of this Ordinance, Ordinance No. 138 shall be amended to provide as follows:

“Violation.

- A. It shall be unlawful for any person to violate any provision of this ordinance.
- B. All violations of this ordinance shall be brought in the Arriba Municipal court.
- C. In addition to the other provisions of this section, the operation of any marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana store, in violation of this Ordinance, any applicable code, any applicable administrative regulations may be enjoined by the town in an action brought in a court of competent jurisdiction.
- D. If any action is brought in a court of law by any person concerning the enforcement, interpretation, or construction of this chapter, the Town shall recover its reasonable attorney fees, expert witness fees, and court costs if it is the prevailing party.
- E. The remedies provided in this section are in addition to any other remedy provided by applicable law.”

SECTION III – DISPOSITION OF FINES AND FORFEITURES AMENDED

Upon adoption of this Ordinance, Ordinance No. 138 shall be amended to provide as follows:

“Disposition of Fines and Forfeitures. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this ordinance shall be paid into the treasure of the Town of Arriba. The fine for a first offense and for any subsequent offense shall be one thousand dollars (\$1000.00) per violation and each day shall be deemed a separate violation.”

Adopted and Approved this 8 day of February 2016.

Signed by Mayor Pro-Tem Troy McCue

(S E A L)

Attest:

Josie Hart
Town Clerk

SIGN

IN

Terry Ayers
 - Gould Steinsiek
 Carolyn Steinsiek
 Chas C Hughes
 Vicki Weber
 Tony Loung
 Ed Hays
 Honey Dussan
 Jp McMaiken
 E. Bruce Bunge
 Jean Easton
 Gary Easton
 Wendy Tetterff
 Steve Hight
 Judith Anne Andersen
 Susan Andersen
 Jace Kone
 Will Kone
 Maura Higg
 Bryan Milburn
 LYNN FRANCIS
 Ed B. Shiffman
 Randal Lewis

Chris Bledsoe
 Mike Michel
 Amy Jones
 Ed P. Schiffrin
 Ed Rensch
 Murray Fisher
 Jim Sifring
 Jim Atzenberg
 Jonathan Hart
 Jenny Moran
 Al
 I. Fuster McIne
 Damon Swan
 Raymond Edson

31

Town of Arriba
Public Hearing for Amendments to the Marijuana Ordinance #138
Monday, February 8, 2016
7:00pm

Sign In Sheet

- Jensby Michal - In Favor of Prohibition
- Sandra Kitzel -
- Larry Fitzer -
- Remy Mills -
- ~~_____~~ - ?
- TJ Miller - In Favor
- MICHAEL YEWELL - In Favor - 5 Officers
- Will Rowe.
- ~~_____~~ Jack?
- Bryan Millburn - Not Y/N
- Jake Michel - In Favor
- Andy Sorey - In Favor
- Chris D. Davis -
- Maria Skypen -
- Raymond Ederer

2 minutes