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Special Marijuana Meeting September 19th, 2017

ROLL CALL: Mayor Don Ware called the meeting to order at 7:00 p.m. with Councilors Neddeau, Block, Shepherd, Chambers, Cole, and Gerber present. Administrative Assistant Tammi Morrow, Administrative Assistant Elizabeth Coleman and City Administrator Scott McDowell were also present.

PUBLIC: Alex Paul (*Democrat Herald*), Joel and Eleanore Stith, Vernon Landers, Patty Landers, Fred and Della Klinkebiel, Gian Mercurio, Dennis Sinnott, Terry Geil, Danna Geil, Natalie Turner, Greg Hopla, Jamie Cross, JoAnn Neddeau, J. David Erickson, Kim Clayton, Sharon McCoy, Irene Corbett, James Smith, Susan Smith, Merritt Schilling, Janet Schilling, Chad Hein, Guy Terrice, Jorden Parrish, Kelly Williams, Dan and Darlene Hartsook, Chris & Shelly Potts, Cathy MacIntyre, Greg Klein (*LCSO*), Jannea Deaver, Kaye & Phil Fox, Randy Simpson, Gayle Ashford, Debbie Jensen, Bryan Bradburn, Roger Tetamore, Dave Erickson, Karl & Cindy Frink, and Don Neddeau.

The pledge of allegiance was recited.

ADDITIONS AND DELETIONS: No additions or deletions were added to the agenda. A sign in sheet will be circulated, please sign in.

Mayor Don Ware read the public hearing format for the evening.

DECLARATIONS OF EX PARTE CONTACT, CONFLICTS OF INTEREST OR BIAS: Councilor Cole declared that she had a conversation with Tricia Thompson concerning the outcome of the Planning Commission meeting.

STAFF REPORT: Administrative Assistant Elizabeth Coleman provided a verbal staff report. On January 23rd, 2017, Randy Simpson and Gayle Ashford appeared before the Planning Commission to request permission to operate a medical marijuana facility at 221 W. Bishop Way in Brownsville. The request was granted. On May 26th, 2017, the applicants submitted a conditional use permit to operate a recreational marijuana facility at the same location. The Planning Commission meeting was held on July 17th, 2017. Questions arose and the meeting was recessed until July 31st, 2017. On July 31st, the application to operate a recreational marijuana facility was denied. Randy Simpson is here tonight because he and Ms. Ashford appealed the Planning Commission decision. Mrs. Coleman advised Council that per the City Attorney, this meeting is an open hearing, to be considered a new hearing.

APPLICANT'S PRESENTATION: Randy Simpson addressed Council stating that he hoped they had read the packet prepared for them by City Staff. After winning the local marijuana vote, he thought he was done pleading his case to the City, which has not been the case. Upon request, Mr. McDowell has provided the audio recordings from the Planning Commission meeting and Simpson quoted several members of the Planning Commission from the Commission's last meeting. City Staff has made it clear that we have met all the requirements needed by the City, and that is the bottom line on how the vote should go. He feels that they have proved that they are not making a gaudy presentation at their location. They plan to continue in this manner. Their operation has had to turn away many local people because they didn't have a medical card. He feels the Council should override the Planning Commission decision.

PROPONENTS TESTIMONY:



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Gian Mercurio was present in support of allowing the recreational marijuana facility to open. She presented a letter that she would like entered into the public record. She said that basically what is important is that a vote was taken and the issue passed by the voters. She stated that it is the sworn duty of the City Council to enact the will of the people.

Dennis Sinnott stated that he is not in association with Green Cross dispensary. Residents of Brownsville voted for marijuana. He stated Linn County is a sanctuary county, and therefore Brownsville is a sanctuary city. Sinnott feels the federal argument is not valid here. He currently has to travel to other cities to buy the product, and those cities are receiving the tax dollars that are generated, not Brownsville. He stated it is socially acceptable to smoke pot and it is time to follow the people's vote.

Debbie Jensen is an employee of the dispensary. She said they answer to state and government regulations. Other cities are using this tax revenue to improve streets, promote drug awareness programs, etc. Medical marijuana shops are not surviving because of the cost. Jensen said that it is still illegal federally, but believes it will be legal soon. She thinks this facility will help Brownsville and that the vote did pass it here.

OPPONENTS TESTIMONY:

Kaye Fox read parts of an email received from Alice Tetamore quoting that Colorado Department of Education will spend \$9.2 million the year on extra nurses, counselors, and social workers to combat marijuana use among students. Schools are bracing for the potential of more users. She said that Randy and Gayle's past behavior has been disrespectful to the City and Staff, and this speaks to the fact that they are not here for the community. Fox believes that the medical facility is sufficient. All surrounding towns have recreational suppliers and it is not that far to go.

Bryan Bradburn would rather not see a recreational facility in Brownsville. He feels that you can go anywhere and get it and is not really needed here. A deeper concern he has is the neighbors that are growing marijuana next door causing odor problems. It is an ongoing issue, and has only gotten bigger and uglier, it is not going away.

Pastor Kelly Williams is against a recreational marijuana shop. She said it is not in the best interest of the community, and more especially our youth. Her church (Brownsville Assembly of God) is located within a few blocks of the dispensary, and she feels it is not needed here. Safety is a main concern; just today a 20 year old lady smoked pot and then ran over a 10 year girl with her car in Linn County. It is not a good fit for our community.

Joel Stith is the pastor of the Brownsville Christian Church. He is concerned about preserving the quality of life in this community. He and his church are often tasked with putting lives back together after drug abuse. He said that folks come here because of our quality of life, and there are not enough homes to go around. The marijuana vote was not overwhelming; it passed by 3 votes. You are serving a divided community, but certain core values need to be upheld. It costs between \$800 - \$3,000 for every person that abuses this drug.

Roger Tetamore spoke in opposition of recreational marijuana. He is very involved with teenagers and works with them in 5 different states. He has seen marijuana contribute to a lackadaisical attitude and lack of motivation. He is for righteousness and self-control, medicines and doctors, but not through this means.

Dan Hartsook spoke about his church that is located less than one city block from the dispensary. He said that they have kids on their campus on an almost daily basis. Between



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Sunday school, church, missionettes and royal rangers programs, in effect the church is a school. He is concerned about unsavory characters in the area. Hartsook said that when he was young he experimented with the drug. It was not nearly as potent then, and the situation he found himself in was very scary. He suggests that we as adults, have a civic and moral responsibility to protect our children. He asks that Council exercise that responsibility.

Dave Erickson stated that what struck him tonight is that the applicant and the proponents seem to try to be discouraging all folks who don't have a legal point to not talk. He believes a recreational facility is the wrong decision for Brownsville, he speaks from his personal experience, not just his opinion. Erickson encouraged everyone to speak up for what you want for your town. He encouraged Council to vote no on this matter.

Merritt Schilling stated that he has been a business man in Linn County for several decades. He showed some exhibits of marijuana products that could be accessible to children and asked Council to pass them around. These items are packaged in attractive packaging and could easily be mistaken for candy. As a large employer, he is required to have drug free employees. It is becoming increasingly difficult to find employees that are drug free. OSHA is taking a strong stand on the issue. Do you really want intoxicated people doing repairs and driving on our roads? He believes the negative impacts that marijuana has on our community and society greatly outweighs any potential benefits. He said the goal of the facility will be to acquire more new customers, and a lot of these will be children. It is very disturbing to him.

GENERAL TESTIMONY:

Gayle Ashford, co-owner of Green Cross, spoke next stating that everyone who just touched the marijuana items have just broken the law. She stated that Green Cross does not sell to children, and they do not give products to children. They sell to responsible adults. The buyers treat the product as medicine because of the cost.

Cathy MacIntyre stated that she is a follower of Christ, and a proud marijuana smoker. She said that this decision is about the vote of the people, not morality.

JoAnne Neddeau stated that she is concerned about the safety of the children, and she has a problem with marijuana use. She said that Gayle Ashford cannot possibly keep each child safe. The proposed revenue from tax dollars can be found somewhere else.

Della Klinkebiel stated that she has worked in the medical field. Marijuana should be treated just like other prescription drugs. Recreational marijuana use is a problem in her opinion. She said that it is used as a treatment for epilepsy because it changes something in your brain. This is not a moral judgment, it's a fact. Klinkebiel said that drinking too much alcohol is a problem as well.

QUESTIONS OR CLARIFICATIONS FROM COUNCIL: None at this time.

APPLICANT'S SUMMARY AND REBUTTAL:

Randy Simpson said that he is hearing a lot of opposition to the dispensary based on people's knowledge of marijuana. Folks speaking against seem to be basing their testimony on how marijuana affects people. That is immaterial to the issue tonight. The bottom line is that he has met all the requirements for the dispensary. He has not heard anything negative about his facility. Council wanted to be very careful about dispensaries



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since so much was unknown. The cities all around us have recreational facilities and they do not have any problems. He is encouraging Council to do what the State of Oregon says they should do, and the voters have voted on it.

STAFF SUMMARY:

Councilor Gerber asked that Staff clarify the basis for the CUP denial by the Planning Commission. Basically, they have approved medical marijuana, but not recreational. McDowell quoted the Comprehensive Plan and the Brownsville Municipal Code. One condition is whether or not the proposed development will adversely affect the surrounding area. The Planning Committee was tasked with weighing the appropriateness of this application, and this is where they hung their decision. They believed that adverse outcomes outweigh the public good.

PUBLIC HEARING:

At this point the public hearing was closed. Council took a recess for 5 minutes, and reconvened at 8:00 p.m.

CITY COUNCIL DELIBERATION & DECISION:

Councilor Gerber asked if Council should be looking at this entire issue fresh, or are they looking for an error that the Planning Committee may have made? Mrs. Coleman stated that per the attorney's instructions this issue simply requires an open hearing. Mr. McDowell has provided Council with all testimony from the previous meetings for Council convenience. Council may present any research that they have done as well. Councilor Gerber commented that we may still be looking at the adverse conditions and how they apply and with the additional information provided tonight.

Councilor Block indicated that he drives over four hundred miles a week in this community as a bus driver for the local schools. Councilor Block does not think that encouraging more impaired drivers is in the best interest of the public. Block feels that the adverse impacts outweigh the benefit to the community.

Mayor Don Ware commented that he has talked to a lot of people over the last few months. He concluded that clearly for over the last 30 years marijuana has been available here in this community. He believes Randy Simpson has met the requirements. He will vote for allowing them to open a recreational facility. He believes this can be revoked later if standards are not met.

Councilor Cole stated that this is a very emotional issue for her. Council needs to follow due process. She is putting her personal opinions aside, but cannot overlook the vote. She also can't ignore that Oregon has legalized retail operations. Staff has verified that the application was done properly and Green Cross is eligible for a business registration. She agrees with Mayor Don Ware that this application should be approved. Cole doesn't believe that Council can control what happens in homes, and that we should not try to control access in homes to marijuana products. Her vote is contrary to her emotions.

Councilor Shepherd stated that he has driven commercially for years. To qualify for this employment, he had to pass random drug testing. He has seen a lot of bad results from



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drug intake. He believes the adverse conditions piece of the Brownsville Municipal Code applies to this situation. His vote will be a no.

Councilor Gerber stated that she came here tonight not knowing how she would vote. Councilor Cole has summarized her thoughts well. Evidence shows that use of marijuana before a certain age can easily induce psychosis. However, she doesn't feel that access will change very much with the approval of the recreational facility. She did state that she is disappointed that for over 2 years now the applicant has been stating that they would not go recreational, they only wanted to do medical to help people, and now it feels like this has been their plan all along. The marijuana vote was extremely close. She will be reluctantly supporting the recreational facility. Gerber also stated that we should be looking at the growing of plants out in the open.

Councilor Neddeau stated that the City has not made a dime on the marijuana this far, as it has been all medical sales. He reiterated that the applicant has repeatedly stated that they were only interested in doing medical sales, they were not interested in the recreational side. He was glad to see all the people here tonight, a lot of new faces, but frankly, they were a couple of years behinds the issue. It is an unfortunate situation; he will be voting no.

Councilor Chambers spoke next on the issue. She said that she lots of friends that smoke it and grow their own plants. It has helped a lot of people. She has given rides to friends when needed to recreational facilities. She does not like how the products are packaged, in seemingly child friendly packaging. You can also get it in water, which she thinks is terrible. Chambers stated that if folks want to grow it, they can. Federal or state law can be applied here. She doesn't care if people use it, but doesn't like it recreationally. She will be voting no.

Councilor Cole made a motion to approve the application for medical and recreational marijuana at the facility at 221 W Bishop Way, overturning the Planning Commission decision, with conditions, one condition being the ability to revoke this approval in one year if adverse conditions exist. Councilor Gerber seconded the motion. A vote was called for with the following results. Ayes included Mayor Don Ware, Councilors Gerber and Cole. Nays included Councilor Block, Shepherd, Chambers and Neddeau. The motion failed.

The applicant can appeal to LUBA (Land Use Board of Appeals) if they choose to do so. LUBA will take a look at the code, state law, and make a determination from there.

ADJOURNMENT: *Councilor Cole moved to adjourn the Council meeting at 8:19 p.m. Councilor Chambers seconded the motion, and it passed unanimously.*

Handwritten signature of S. Scott McDowell in blue ink.

City Administrator S. Scott McDowell

Handwritten signature of Don Ware in black ink.

Mayor Don Ware