

CALL TO ORDER

Mayor Paul Helenberg called the April 25, 2016, regular meeting of the Castle Rock City Council to order at 7:30 pm., followed by the Pledge of Allegiance. The following councilmembers were present: Art Lee, Lee Keesler, Ellen Rose, and Earl Queen. Mike Davis was absent.

Staff present: Frank Randolph, city attorney; Deborah Johnson, city planner, and Ryana Covington, Clerk-Treasurer.

Meeting location: Castle Rock Elementary School, Creative Learning Center, 700 Huntington Avenue South, Castle Rock, WA.

Documents provided to the public and city councilmembers:

1. Printout of PowerPoint presentation entitled: City of Castle Rock Marijuana Moratorium, Public Hearing, April 25, 2016
2. Staff Report presented by Deborah Johnson, City Planner and Frank Randolph, City Attorney; Agenda Title: Moratorium on Marijuana-Related Uses
3. Proposed Findings of Fact
4. Public Hearing Notice
5. April 25, 2016 City of Castle Rock Council Meeting Agenda
6. Document entitled: City of Castle Rock Tips For Addressing City Council Issues, updated October 2012

PUBLIC HEARING

Mayor Helenberg adjourned regular session and opened the Public Hearing at 7:35 p.m.

Purpose of the public hearing: to take public testimony on a proposed moratorium prohibiting the retail sales, growing, production, and processing of marijuana and cannabis-infused products intended for medical and/or recreational use within the Castle Rock city limits for a one-year period of time during which the City will study regulatory options and may propose amendments.

The mayor outlined several ground rules for the Public Hearing and invited participation and comments.

City Planner, Deborah Johnson provided a PowerPoint presentation summarizing council action taken at the March 14, 2016 regular council meeting.

Johnson explained that City Council adopted a moratorium relating to marijuana operations on March 14, 2016 in accordance with RCW 35A.63.220. This moratorium was adopted as an emergency ordinance and requires certain processes to be followed. These include a Public Hearing and adoption of Findings of Fact and adoption of a work plan. Through this process city council can either decide to adopt the Findings of Fact, change the Findings of Fact, continue with the moratorium, discontinue the moratorium or change the moratorium.

If city council decides to keep the moratorium, Johnson would need to do a SEPA review for submittal to the State.

Johnson explained that a moratorium is a strategic pause to allow for evaluation. A moratorium is not permanent; the duration can be six months to one-year. Johnson stated the city has chosen to set their moratorium at one-year duration to allow for required work to be completed. This proposed moratorium applies to all marijuana-related uses, (under today's law) including medical dispensaries, collective gardens, producer, processor, retail and testing labs. Johnson noted the State has changed law on some of those uses; effective this July.

Johnson stated the moratorium will apply city-wide, however the city's main focus will be in the Exit 48 and Exit 49 retail areas; because those areas already have zoning for marijuana use. This moratorium does not affect a property owner's ability to develop other allowable uses for those areas.

Johnson explained several reasons for imposing a moratorium:

- Washington State statute has changed; and additional changes to their regulations are pending. The city's municipal code needs to be updated before allowing development. Johnson stated there were several bills submitted to the state legislature this year; she feels marijuana regulations will continue to evolve. The city's current municipal code was adopted in 2011 and an additional code in 2013. The city's codes date back to when marijuana was initially legalized in the state and was based on a model ordinance prior to current rules established by the State Liquor and Cannabis Board (WLCB). The way city code was written, and applicant could not be licensed in the city; because the code does not coincide with current WLCB processes.
- Johnson stated that Exit 49 is basically the 'front door' to the city. It needs to be determined if freeway exits are the best location for this use. She noted the city recently updated their Park and Recreation Plan, with Exit 49 identified as a main tourist entry to recreational areas.
- Budget/staffing limitation; both the city planner and city attorney are contracted positions. Johnson stated the city pays for approximately 20% of her salary. More than half of that budget allocation has been used for this year. In addition, there are other workloads that require planning review and code amendments that require Johnson's time.
- Planning Commission; Johnson stated the planning commission is currently not fully seated. Vacancies are the result of people retiring, moving and resignations. The city has been actively trying to solicit people interested in serving to fill those vacancies.
- Rapid growth in the marijuana industry, combined with bans and moratoria in other areas have put pressure on Castle Rock. After the WLCB issued their report adding 200+ additional stores statewide, Johnson began to get several telephone inquiries regarding siting within city limits. Johnson noted there are bans in Clark and Pierce counties, permanent bans in Mossyrock, Vader and Napavine to the north and LaCenter and Ridgefield to the south of Castle Rock. The City of Morton and Lewis County also have moratoriums imposed. Johnson stated Lewis County's moratorium has been in place since 2013 and they still are working on their county code.

Johnson stated the policy decisions are the foundation for determining for how the city wants to address marijuana operations within the city limits. This can range from a complete ban, to liberalizing operations.

Johnson noted policy considerations include:

- * Tourism orientation at Exit 49
- * Manufacturing operations (producer/processor); which are more of an industrial use. Under current construct, producers could locate in retail or industrial areas. The city needs to determine if that is their intent; or does the city want producer/processors to site somewhere else; such as the industrial area.
- * Tax implications. Johnson stated the city could receive tax revenues from marijuana sales located within the city.

Johnson outlined Castle Rock Municipal Codes (adopted in 2011 and 2013) and conflicts with the Cannabis Patient Protection Act (2015) Revised Code of Washington;

1. Castle Rock Municipal Code allows for recreational retail; but not for medical dispensaries. Johnson stated under the new state law; these two uses are being combined. Under the city code, an applicant would never be able to obtain a medical endorsement.
2. Castle Rock code allows for collective gardens in certain zones. The state has changed collective to cooperatives. The state has also changed their regulations on these uses, including the separation between those and retail uses. These new regulations are not reflected in city code.
3. The state is changing their definitions. City code only has definitions for collective gardens and recreational use; which was based on the original state code when marijuana regulations were adopted. Johnson pointed out the definitions within the city's moratorium are based on current state regulations. However the state is changing those definitions, effective July, 2016. Johnson stated the state's proposed changed definitions cannot be addressed in the city's moratorium because they do not go into effect until July.
4. Technical corrections in city code are needed; Johnson stated she has only identified a few; however a deeper review will be required to eliminate any other potential conflicts within city code.

Johnson provided an overview picture of current city zoning for the Commercial (C-2) zones at Exit 49 and Exit 48. She noted that at Exit 49, medical marijuana collective gardens are allowed; however recreational producers/processors/retail, labs and medical marijuana dispensaries are prohibited. Exit 48 allows for medical marijuana collective gardens, recreational marijuana producers/processors/retail (in certain areas); however does not allow for medical marijuana dispensaries or labs.

Johnson added that properties at Exit 48 are not developed for commercial use at this time. She also noted in some areas there are topographical constraints that would need to be addressed by the developer.

Johnson stated her staff report includes several resources from Municipal Research and Service

Center pertaining to marijuana regulations.

Johnson stated the comment period denoted on the Special Meeting Notice published in the Daily News on April 14, 2016 closed on April 25th at 5:00 p.m. One comment letter was received and staff received and responded to an inquiry about the hearing process. Both of these are included as an attachment in Johnson's staff report.

Johnson said the city also received communication today from the Washington State Liquor and Cannabis Board advising of a new Marijuana License Application submitted today by King Cronin 2 for marijuana retail and medical marijuana. Site address listed on the application is within the city limits.

City Attorney Frank Randolph stated the city has an obligation to have Findings of Fact within sixty days of the moratorium. Randolph read into record the Findings of Fact as follows;

Finding of Fact # 1:

Recent and pending changes in state laws and regulations concerning the legal, for profit, sale, growing, production and processing of marijuana are not yet properly addressed in the City's Code.

Finding of Fact #2:

The growth of the legal, for profit, marijuana industry, combined with bans and moratoria in other local authorities, has caused a large and recent increase in the number of inquiries to the City's Planner about locating new, for profit, marijuana businesses in Castle Rock.

Finding of Fact #3:

How the legal, for profit, marijuana business develops in Castle Rock is likely to have significant impact on the community and on existing City plans for other development.

Finding of Fact #4:

The City needs a year to study, to discuss, to draft and to enact the necessary changes to its Code and other development plans in a manner that best promotes the City's public health, safety and welfare.

Finding of Fact #5:

The March 14, 2016, one year, temporary moratorium on all new, for profit, marijuana business development was warranted.

Finding of Fact #6:

The decision to adopt the March 14, 2016 moratorium on an emergency basis was necessary to prevent incompatible development prior to proper regulation.

The following public comment was provided:

- Nancy Chennault, Castle Rock area resident, testified on the positive effects that medical marijuana use has afforded to her elderly mother and two sisters. She spoke in favor of medical marijuana use; but feels the city should take time to do it right.

- Tim Cronk Sr., associated with the King Cronk Group. Mr. Cronk said his company is the one who has submitted an application to the state for marijuana retail and medical business operation in Castle Rock. Cronk said he has been in the medical marijuana business for five to eight years. He spoke of how medical marijuana helped his wife during her cancer treatment. Because of the change in state regulations, he has to transition his business to retail. Without doing so, he will not be able to provide products to his patients. Cronk stated regulations do not allow medical marijuana establishments to have large signs. He currently has a business in Grand Mound where his focus is on medical marijuana. Mr. Cronk said the way the state has set up allotments; he does not have a year to wait. Otherwise he will lose his ability to receive one of the allotments.

- Dallas Carroll, Castle Rock area resident. Stated he is a drug and alcohol counselor and voted against Initiative 502 because of the way the bill was written. Carroll stated he is a medical cannabis advocate and he has personally seen where use of this product has helped others. He feels these businesses can be presented in an appealing way. He does not want to see 'green pot leaf' signs; instead he supports a medical type office, with HIPAA compliance, and professional consultation for patients. He felt that Castle Rock already has a vacant building that could provide separate entrances between the medical and retail sides of the business. Carroll feels it is important to address this issue with youth. He would like to participate in a team of community members that would work to develop the ordinance and policy regulating the marijuana business. He felt this business will be positive for the city and bring more people in to shop. He stated he is neutral on the moratorium; but would like the regulations to be done right.

John Murfitt, owner of Greener Futures Electric in Castle Rock, stated when the topic of marijuana comes up, everyone is worried about the youth. He has six children and has provided them with tools during their upbringing to make good decisions. When they turn twenty-one and choose to use marijuana or alcohol; that is their choice as an adult. Mr. Murfitt stated he has wired over 50 grow operations. He noted the tax revenue received from marijuana sales is staggering and it is his opinion that they are not a blemish on the community. Those businesses are managed in a professional manner and all have a non-profit that benefit from their donations. Mr. Murfitt stated everyone has medical stories of the positive effect of cannabis use. These businesses can be done right and he would like to see such a business in Castle Rock.

Shawna Cronk, daughter of Greg Cronk. Stated she has witnessed her father and uncle put together medical marijuana businesses which are set up like doctor's offices and those businesses are operated professionally. She felt that having a recreational marijuana store will benefit the community because there currently are no other comparable businesses nearby.

She is in favor of bringing more businesses into town.

Clara Todd, Castle Rock area resident; felt that the state legalized marijuana and she cannot understand why people are forcing customers to go 15 miles to purchase something that is legal.

Rick Safko, JJRE Enterprises, representing Canton Properties (Larsen Lane SW, Castle Rock, WA). Stated the cities of Longview and Kelso have designated industrial zoned areas for production of marijuana. Speaking on behalf of Mr. Canton, they would like to suggest that Castle Rock consider doing the same. There are 100 acres of industrial-zoned land located within city limits. They are away from the downtown area and there is room to site such a facility at the far south end of the property. He felt this would be a perfect location for such a business.

Councilmember Lee Kessler stated that marijuana is a product that under federal law is still a crime to possess or grown; yet the state allows it. Clearly there appears to be evidence that cannabis may be beneficial for medical issues; yet the FDA will not address this. Kessler noted that testimony at this meeting has been in support of medicinal uses, but he does not hear anything regarding recreational use. His concern is with the youth and controlling access to marijuana use. Kessler stated in his profession, he has seen the effect of marijuana and drug use on youth. He cited a study from New Zealand noted people who smoke marijuana in youth lose an average of eight I.Q. points; which they never get back as an adult. In looking at the issue as a community and trying to do it the right way; he would like to hear more dialog from people who have done more research in how to prevent the use by youth. Kessler stated, as the city looks into having time through the moratorium, he felt this is important to explore this research. He would be interested in obtaining more information and comments from people regarding this industry.

There being no further comments, Mayor Helenberg closed the Public Hearing at 8:32 p.m. and resumed regular council session.

City Attorney Randolph stated the statute requires city council to take action on the proposed Findings of Fact by either approving all six items or amending.

Councilmember Kessler made a motion, seconded by Rose to approve all six Findings of Facts as presented.

Discussion on the motion:

Dallas Carroll requested councilmembers reduce the moratorium time from one-year to three months. He stated beginning in July medical marijuana will only be available through a recreational store. Patients do not want to go to retail stores to get their product; they want a trusted source.

Deborah Johnson, city planner, stated she is not unsympathetic to Mr. Carroll's concerns; however she feels that three months would not be adequate time. She has had conversation

with the city's insurance pool. They suggested the city could consider interim zoning. Johnson stated staffing constraints do not make the option of developing interim zoning viable.

Mr. Carroll noted the potency THC milligram amounts between recreational and medical marijuana are different and one-year will be an issue for those patients that need this option.

Councilmember Kessler stated the city's insurance provider and legal counsel are recommending a direction to follow; which is a moratorium. He does not have an issue with placing a moratorium for the purpose of pressing ahead with the process. He stated he is also not unsympathetic to the needs of patients; however constraints such as staffing also need to be considered. The issue of dosage, quantity and sourcing is more compelling to him than someone not wanting to go to a retail shop. But he does not feel the city can step outside of what the insurance carrier and counsel are recommending. The city still needs to proceed responsibly.

Tim Cronk said the bottom line is that the state will still approve licensing regardless of any ban or moratorium. He stated he would like to be a good partner and work within rules and constraints of the city; however either way – the state will still license his business.

Mr. Cronk stated Grand Mound in Thurston County also does not have their zoning ordinance current with state law. They are issuing him a Special Use Permit for his Grand Mound store because his land was on planned industrial. This permit allowed him to get licensed. He suggested this might be an option for the city to consider.

Deborah Johnson stated there is no permit available to Mr. Cronk; even if the moratorium did not exist. The site that Cronk has chosen does not allow for retail or medical under the city's current zoning.

Cronk stated if his location does not fall within 1000 feet of the state buffers; then they will license him anyway. He stated the city is about a year behind this process. The state is telling entities that the site meets state regulations; so there are many stores opening that are doing so without the blessings of the city or county that they are operating in. Because of the way the state is setting up the additional licensing through a priority system; there is not time for delay. Cronk stated if he is not ready to open; the state will bypass him and issue a permit to someone else. The state, legislature and WLCB have created this issue and he is trying to work within the state parameters. He felt that within the next two months, all additional licensing will be issued. Cronk stated initially the WLCB's priority system was only open to those business operations that have been run legitimately; paid taxes, reporting, etc. However the state has softened up that criteria and allowed those store owners to file back taxes to make them eligible as Priority 1 shops. Under new state law, each Priority One shop now qualifies to have up to three stores.

Shawna Cronk requested confirmation on the length of the proposed moratorium and any extension. Mr. Randolph stated the council has proposed a one-year moratorium and the issue

of any renewal would be evaluated later in the process.

Tim Cronk said under the new state regulations, if your business is on the medical side of cannabis, you have to stop doing business as of July 1st. If a person continues with their operation; they will be subject to arrest. The meshing of medical and 502 recreational has created this issue and if medical marijuana businesses want to stay open, they must adapt to the new state law by obtaining a medical/recreational marijuana state license by July 1st.

Vote on the above motion to adopt the six Findings of Fact as proposed: Councilmembers Lee, Kessler, Queen and Rose voted 'Aye'. Councilmember Davis was absent. Motion passed.

Mayor Helenberg announced City Council will hold a Special Meeting, May 2, 2016, 7:30 p.m. at the Castle Rock Senior Center, 222 Second Avenue SW. Purpose of the Special Meeting is to take action in consideration to Amend Ordinance No. 2016-01, on first reading. In answer to Mr. Cronk's question, this meeting is open to the public and the mayor will allow further public input. The second reading of this ordinance will be scheduled for May 9th during the regularly scheduled council meeting.

Randolph stated tonight city council was required to adopt Findings of Fact. The March 14th ordinance imposing the moratorium will then be amended to incorporate Findings of Fact. There will be two readings for the amended ordinance; May 2nd and May 9th.

ADJOURNMENT

There being no further business, Mayor Helenberg adjourned the meeting at 8:51 pm.

Mayor Paul Helenberg

Clerk-Treasurer Ryana Covington