

CITY OF STEAMBOAT SPRINGS

AGENDA

REGULAR MEETING NO. 2011-09
TUESDAY, MAY 17, 2011

5:00 P.M.

MEETING LOCATION: Citizens' Meeting Room, Centennial Hall;
124 10th Street, Steamboat Springs, CO

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard **following** the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

A City Council meeting packet is available for public review in the lobby of City Hall, 137 10th Street, Steamboat Springs, CO, or on our website at http://steamboatsprings.net/city_council/council_meetings. The e-packet is typically available by 1pm on the Friday before the meeting.

PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

Dinner with Upper Yampa Water Conservancy District at 4:30pm.

A. ROLL CALL (5:00pm)

B. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

1. **Joint Worksession with the Upper Yampa Water Conservancy District.** (45 minutes)
 2. **First quarter financial update.** (Hinsvark) (30 minutes)
 3. **Noise ordinance discussion.**
 4. **Discussion on Medical Marijuana Centers and the possibility of banning them.**
-

C. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. ANY MEMBER OF THE COUNCIL OR THE PUBLIC MAY WITHDRAW ANY ITEM FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION AT ANY TIME PRIOR TO APPROVAL.

LEGISLATION

5. **MOTION:** Motion to return Jon Roberts to full-time status as City Manager and to return Wendy DuBord to status as full-time Deputy City Manager, restoring both to their salaries in effect prior to Jon Roberts medical leave; to be effective for the pay period beginning May 21, 2011. (Lettunich)
 6. **MOTION:** Approval of a Watershed Protection permit to authorize seasonal usage of a parcel for a nursery sales retail operation located within the Steamboat Municipal Well A influence area as shown in the City of Steamboat Springs Waterworks Protection Map. (Beall)
 7. **FIRST READING OF ORDINANCE:** An ordinance amending Sections 12-29, 26-402 and 26-92 of the Steamboat Springs Revised Municipal Code relating to approval procedures for peddlers, solicitors, canvassers, or transient sellers operating in public places; providing an effective date; and setting a hearing date. (Gibbs/Foote)
-

D. PUBLIC HEARING: ORDINANCE SECOND READINGS

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

8. **SECOND READING OF ORDINANCE:** An ordinance approving a loan from the Colorado Water Resources and Power Development

Authority; authorizing the form and execution of the loan agreement and a governmental agency bond to evidence such loan; authorizing the execution and delivery of documents related thereto; and prescribing other details in connection therewith. (Hinsvark)

9. **SECOND READING OF ORDINANCE:** Fourth 2011 Supplemental Budget Appropriation ordinance. (Hinsvark)
10. **SECOND READING OF ORDINANCE:** An ordinance amending Chapter 6, Section 6-2 of the Steamboat Springs Municipal Code; establishing new boundaries for the City Council Districts; repealing all conflicting ordinances; providing for severability; and providing an effective date. (Lettunich)
11. **SECOND READING OF ORDINANCE:** An ordinance amending provisions relating to Medical Marijuana Businesses set forth in Chapter 12, Article VI and Section 26-92 of the Revised Municipal Code; providing for severability; providing an effective date; and repealing all conflicting ordinances. (Foote)

E. PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

PLANNING
PROJECTS

F. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS:
ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE OR NO COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. A CITY COUNCIL MEMBER MAY REQUEST AN ITEM(S) BE REMOVED FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION. **ALL ORDINANCES APPROVED BY CONSENT SHALL BE READ INTO THE RECORD BY TITLE.**

12. **FIRST READING OF ORDINANCE:** An ordinance to eliminate Community Development Code Section 26-184 (B) (3), also known as the "10% rule". (Lorson)

G. PUBLIC HEARING – PLANNING COMMISSION REFERRALS

PUBLIC HEARING FORMAT:

- **Presentation by the Petitioner (estimated at 15 minutes). Petitioner to state name and residence address/location.**

- **Presentation by the Opposition.** Same guidelines as above.
- **Public Comment by individuals (not to exceed 3 minutes).**
Individuals to state name and residence address/location.
- **City staff to provide a response.**

13. **SECOND READING OF ORDINANCE:** An ordinance amending Chapters 20 and 26 of the Steamboat Springs Revised Municipal Code to include requirements for Complete Streets, providing an effective date, and repealing all conflicting ordinances. (Hruby)
-

H. REPORTS

14. **Economic Development Update.**

15. **City Council**

16. **Reports**

- a. Agenda Review (Franklin):
 - 1.) City Council agenda for June 7, 2011.
 - 2.) *City Council agenda for June 21, 2011. (Cancel?)*

17. **Staff Reports**

- a. City Attorney's Update/Report. (Lettunich)
 - b. Manager's Report: Ongoing Projects. (Roberts)
 - 1.) Employee Efficiency Merit Award.
-

I. ADJOURNMENT

**BY: JULIE FRANKLIN, CMC
CITY CLERK**

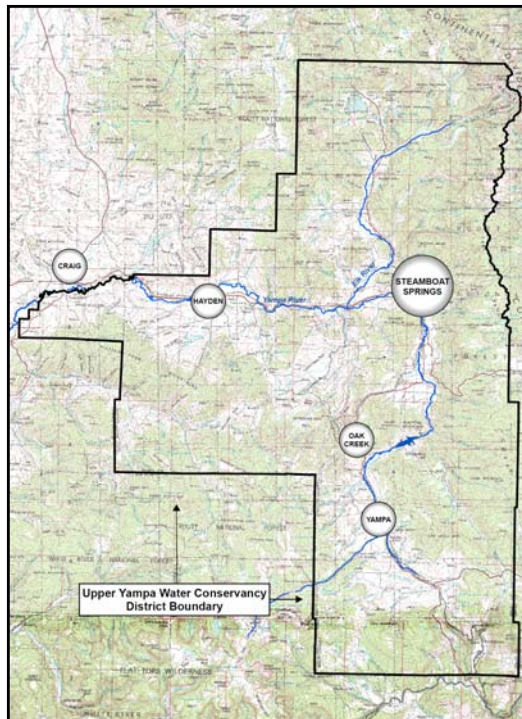
AGENDA ITEM # 1

Upper Yampa Water Conservancy District

Master Plan Scoping

Yampa River and Its Tributaries

Toponas to Craig, Colorado



District's History

- ◆ Formed in 1966 with boundaries encompassing most of Routt and part of Moffat County
- ◆ Provides legal authority to plan and construct water conservation projects in the Yampa Valley.
- ◆ Directors Appointed by the Court.
Three from Each Division.
South – Colby, Redmond, Hermann
North – Sharp, Wolff, Brenner
West – Haslem, Monger, Murphy
- ◆ Revenues From
- ◆ Property Tax, Water Sales, Electrical Power Sales,

Major Projects



Yamcolo Reservoir

- Constructed in 1981 (9,080 acre-feet)
- Raised in 1997 (525 acre-feet)



Stagecoach Reservoir




- Constructed in 1989 (33,275 ac-ft)
- Raised in 2010 (3,165 ac-ft)

District's Mission Statement

April 2011

To lead water resource management within the District's boundaries by responsibly conserving, protecting, developing, providing and enhancing the water resources of the Yampa River Basin. The District will initiate and participate in projects that embody and promote the protection of water rights, provide broad benefits to District constituents and develop projects that provide responsible conservation, responsible growth, beneficial water storage and usage, and public awareness within the Upper Yampa Water Conservancy District

New UYWCD Master Plan

- | | | | |
|---|---|------|---|
| I. UYWCD Background | } | 2011 |  |
| II. Scoping Constituent Needs | | | |
| III. Modeling – CRDSS Evaluating River & Reservoir Operations | } | 2012 |  |
| IV. Project Identification | | | |
| V. Project feasibility/prioritization | } | 2013 |  |
| VI. Summary/Work Plan | | | |

Scoping Needs in the UYWCD

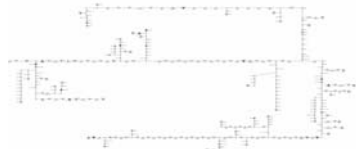
Listening to:

- Town of Yampa
- Town of Oak Creek
- City of Steamboat Springs
- Town of Hayden
- Routt County
- Moffatt County
- Mount Werner Water
- Various Metro Districts (Steamboat II, Morrison Creek)
- Irrigators Associations & Ditch Companies
- Chamber of Commerce
- Yampa White Roundtable
- Colorado Division of Water Resources (Division 6)
- Friends of the Yampa
- Yampa Valley Fly Fishers
- Others



Technical Planning – River Model

Physical and Legal Availability



Mathematical Model to Represent...



Reservoir storage and releases...



...Diversions (by seniority) with consumption & return flows...

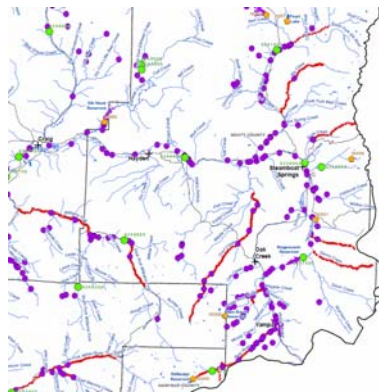


...and Stream flows.

River Model → River Conditions

Downstream Constraints

- Senior Rights (Maybell Ditch)
- New Appropriations (e.g. Shell, Yampa Pumpback, etc)
- Compact Compliance
- Endangered Species



Upstream Inputs

- Wet, Average, Dry (Drought Planning)
- Timing Changes? (Climate Change)



A Need Exists for Focused Cooperation in the Yampa River Basin

UYWCD

2011 Master Plan Objectives

I. UYWCD Background -2011

- ◆ Status of Water Rights Portfolio(s)
 - Amounts, Priorities, Uses, Status (conditional vs. absolute)
- ◆ Hydrologic Assumptions
 - Drought Planning
 - Climate Change
- ◆ Status of Existing Facilities

II. Scoping Constituent needs – 2011

- ◆ Roundtable information
 - ~ Municipal, Agricultural, Energy, Non-Consumptive Needs
- ◆ Interviews – Ag, Muni, Industrial, Non-consumptive
- ◆ MP Workgroup
- ◆ Projected needs for (50yr)? time frame

Scoping Needs

City of Steamboat Springs Needs?

- ◆ Elk River Supply ?
- ◆ Drought Planning?
- ◆ Climate Change?
- ◆ Recreational Flows?
- ◆ Compact Water Bank?
- ◆ ?
- ◆ ?



Next Steps

- ◆ Scope refinements of model prepared for Roundtable assessments
 - Yamcolo Operations
 - Stagecoach Operations
 - Other water right concerns/operations
- ◆ Work with your staff on technical details?
 - Elk River Model
 - Drought Severity
- ◆ Form Technical Workgroup

Comments/Questions

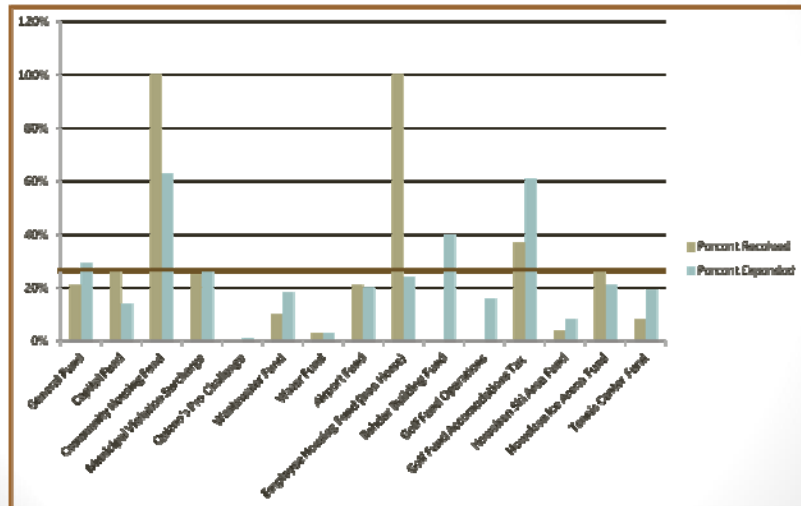


AGENDA ITEM # 2

First Quarter 2011

City of Steamboat Springs
May 17, 2011

Expenditures and Revenues by Fund through 3/31/2011 as a Percent of the Annual Budget



Sales Tax Comparison – Based on Deposit Date

CASH BASIS					Budget Comparison		Actual Comparison	
	2010 Actual	2011 Budget by Month	2011 Actual	Dollar amount more (less) than budget (YTD 2011)	Inc/(Dec) Budget Comparison	Year-to-date Budget Comparison	By Month	Year-to-date Compared to 2010
February	\$ 1,763,248	\$ 1,605,426	\$ 1,759,468	\$ 154,042	9.60%	9.60%	-0.21%	-0.21%
March	1,756,685	1,605,426	1,754,112	302,728	9.26%	9.43%	-0.15%	-0.18%
April	1,908,163	1,751,374	2,106,025	657,379	20.25%	13.25%	10.37%	3.53%
May	946,311	875,687	930,224	711,916	6.23%	12.19%	-1.70%	2.75%
June	884,986	729,739	869,941	852,118	19.21%	12.97%	-1.70%	2.21%
July	1,205,284	1,021,635	1,184,794	1,015,277	15.97%	13.38%	-1.70%	1.65%
August	1,463,008	1,313,530	1,438,137	1,139,884	9.49%	12.80%	-1.70%	1.16%
September	1,310,173	1,167,582	1,287,900	1,260,202	10.30%	12.51%	-1.70%	0.83%
October	1,259,903	1,021,635	1,238,485	1,477,052	21.23%	13.32%	-1.70%	0.57%
November	1,015,732	875,687	998,465	1,599,829	14.02%	13.37%	-1.70%	0.40%
December	3,156,417	2,627,059	3,102,360	2,075,130	18.09%	14.22%	-1.71%	0.00%
	\$ 16,669,910	\$ 14,594,780	\$ 16,669,910	2,075,130	14.22%	14.22%	0.00%	0.00%
★								
Estimates (NOT actual amounts)								

Savings from Personnel Reduction in 2011

- Four positions in Parks, Recreation & Open Spaces have been vacated – of those 3.6 FTE's only 1.9 FTE's have been approved to replace the vacated positions.
- A Records Technician left the City and the Police Department will not refill.
- We replaced a janitorial FTE with a contract.
- HR Records show that we have dropped a total of 13.24 FTE since 2009 while at the same time adding 3.25 FTE for Iron Horse management – the net effect to City operations is a reduction of 16.49 FTE.
- Total Savings from 2011 reductions is \$128,000.

Excess Revenue Allocation

Anticipated Excess Sales Tax	\$	2,075,130
------------------------------	----	-----------

Allocation Recommendations:

Unfunded Community Support Requests	\$	357,093
-------------------------------------	----	---------

Other Local Initiatives	\$	451,800
-------------------------	----	---------

Deferred Maintenance and Capital Projects	\$	350,000
---	----	---------

Projects & Operations	\$	416,000
-----------------------	----	---------

Total Funding Requests	\$	1,574,893
------------------------	----	-----------

Requests as a Percentage of Excess		76%
------------------------------------	--	-----

Available for Reserves – CIP Fund Recommended	\$	500,237
---	----	---------

**City of Steamboat Springs - 2011 Budget
Community Requests**

Requesting Entity	2009 Actual	2010 Budget	2011 Original Budget	2011 Supplemental
3 Coalitions	\$276,500	\$329,975	\$329,975	\$137,625
Chamber Marketing (1)	\$564,200	\$600,000	\$525,000	\$75,000
Chamber Special Events	\$75,000	\$65,000	\$65,000	\$35,000
Steamboat Mountain Village Partnership	\$0	\$0	\$10,441	\$14,559
Routt County Riders	\$0	\$0	\$10,441	\$19,559
Yampa Valley Regional Airport	\$25,000	\$25,000	\$25,000	\$0
Routt County Economic Development Coop	\$27,500	\$25,000	\$25,000	\$0
Main Street Steamboat Springs (2)	\$50,000	\$50,000	\$50,000	\$0
Routt County Search & Rescue	\$19,800	\$20,350	\$20,350	\$20,350
Yampa Valley Housing Authority	\$80,000	\$80,000	\$80,000	\$60,000
July 4th Fireworks (3)	\$24,000	\$34,000	\$24,000	\$5,000
Senior Sales Tax Rebate	\$30,000	\$27,000	\$27,000	\$0
Humble Ranch Volunteer Program	\$0	\$0	\$0	\$0
Vision 2030	\$17,500	\$0	\$0	\$0
Yampa Valley Recycles	\$4,000	\$0	\$0	\$0
Yampa Valley Partners	\$11,500	\$5,000	\$5,000	\$0
	\$1,205,000	\$1,261,325	\$1,197,207	\$367,093
2010 Original Budget		\$1,176,325		

- (1) 2010 Budget amount includes a \$75,000 supplemental budget award.
- (2) 2011 Budget request is for \$45K cash and forgiveness of annual \$5000 loan repayment.
- (3) 2010 Budget includes a \$10K supplemental grant.

2011 Excess Revenue Appropriation

		Balance as it is used	
Anticipated Excess if Sales Tax is Flat	\$ 2,075,130.00		Subtotals
Reduce by 20% to accommodate shortfalls in other revenues	\$ 1,660,104.00		
Unfunded Community Support:			
3 Coalitions	\$ 137,625.00	\$ 1,522,479.00	
Chamber Marketing	\$ 75,000.00	\$ 1,447,479.00	
Additional Summer Marketing	\$ 25,000.00	\$ 1,422,479.00	
Chamber Special Events	\$ -	\$ 1,422,479.00	
Steamboat Mountain Village Partnerships	\$ 14,559.00	\$ 1,407,920.00	
Routt County Riders	\$ 19,559.00	\$ 1,388,361.00	
Routt County Search and Rescue	\$ 20,350.00	\$ 1,368,011.00	
Yampa Valley Housing Authority	\$ 60,000.00	\$ 1,308,011.00	
July 4th Fireworks	\$ 5,000.00	\$ 1,303,011.00	\$ 357,093.00
Other Local Initiatives			
Bike Race Fireworks	\$ 15,000.00	\$ 1,288,011.00	
Bike/Pedestrian Signage and Lane Striping	\$ 103,000.00	\$ 1,185,011.00	
A Summer of Bike Events	\$ 46,800.00	\$ 1,138,211.00	
Downtown Tree Lights	\$ 15,000.00	\$ 1,123,211.00	
Purchase a sound meter	\$ 2,500.00	\$ 1,120,711.00	
RTA Video and graphics	\$ 6,500.00	\$ 1,114,211.00	
High Water Initiative - Equipment and Manpower & River Road	\$ 63,000.00	\$ 1,051,211.00	
Fire Consolidation consultant, et al	\$ 75,000.00	\$ 976,211.00	
Incentives for Economic Development	\$ 125,000.00	\$ 851,211.00	\$ 451,800.00
Deferred Maintenance and Capital Projects			
Mountain Fire Station Capital Maintenance	\$ 45,000.00	\$ 806,211.00	
Transit HVAC	\$ 41,000.00	\$ 765,211.00	
Parks & Rec HVAC and heat trace	\$ 25,000.00	\$ 740,211.00	
Unplanned Maintenance	\$ 20,000.00	\$ 720,211.00	
Road to New Skate Park	\$ 135,000.00	\$ 585,211.00	
Trailer for Parks' Mower	\$ 8,000.00	\$ 577,211.00	
Depot Roof	\$ 45,000.00	\$ 532,211.00	
Place Conduit in Water/Wastewater Projects	\$ 31,000.00	\$ 501,211.00	\$ 350,000.00
Projects & Operations			
Increased cost of fuel	\$ 195,000.00	\$ 306,211.00	
Finance CPA Consulting	\$ 30,000.00	\$ 276,211.00	
Snowplow Supplement	\$ 93,000.00	\$ 183,211.00	
Transit Seasonal Supplement	\$ 98,000.00	\$ 85,211.00	\$ 416,000.00
	\$ 1,574,893.00		\$ 1,574,893.00

AGENDA ITEM # 3

CITY COUNCIL COMMUNICATION FORM

FROM: Tyler Gibbs, AIA, Director of Planning and Community Development (Ext. 244)

THROUGH: Jon Roberts, City Manager

DATE: May 17, 2011

RE: Amendment to Steamboat Springs Municipal Code, Article III Noise Pollution

NEXT STEP: This item will be scheduled for Planning Commission and City Council Public Hearings

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

- I. PROJECT NAME:** **Noise Ordinance:** Revisions providing clear, measurable standards governing the creation, measurement, effects and enforcement measures related to noise having off-site impacts.
- II. REQUEST OR ISSUE:** Provide recommendation for further action, including, but not limited to, moving ordinance forward to public hearing at Planning Commission and City Council.
- III. LOCATION:** All zone districts
- III. FISCAL IMPACTS:** No direct implementation costs. Sound monitoring equipment and training has already been obtained. Benefits may include more efficient confirmation of noise complaints and more reliable enforcement of documented violations.

IV. EXECUTIVE SUMMARY:

1. Activity Since April 5th Discussion

The Police Department has obtained new sound monitoring equipment including training for additional officers. There has been very limited additional sound monitoring due to both the change over in equipment and the lack of activity during mud season.

The Planning Department and Mainstreet have initiated a Responsible Hospitality Panel with representatives from the Chamber, the Restaurant Association, developers, realtors and residents representing downtown and base area projects, entertainment venues and others representing the hospitality industry. Public and private transportation representatives are also participating. The objectives of the panel are to promote improved communication and coordination among all stakeholders to proactively reduce conflicts and promote opportunities of mutual benefit. The panel will work with the City to monitor the effectiveness of the noise ordinance once adopted and provide reports to City Council at intervals to be defined at the time of adoption. The panel's initial meeting was held on May 11th. A second meeting will be held on June 1st. Recruitment of additional participants is ongoing.

Council has continued to receive correspondence from constituents regarding the proposed ordinance. There has been a noticeable increase in letters supportive of the proposal.

No amendments have been made to the proposed ordinance since the initial discussion on April 5th.

2. Background

Controversy and conflicts between venues featuring live entertainment and surrounding residential uses have frequently been prominent public issues during the past year. Representatives of local entertainment venues have appeared before council to present their efforts to mitigate impacts, promote the value of their businesses to the Steamboat's resort economy, and request unambiguous criteria to guide what is acceptable and what is not. Residents and guests have also shared stories of unanticipated disturbance and interrupted vacations.

The Steamboat Springs community recognizes the immense value of both a thriving entertainment scene as well as the ongoing revitalization of our downtown and mountain village as true mixed-use neighborhoods. Successful cities across the country have seen perhaps their greatest renaissance in the success of their most diverse urban districts. Steamboat is not unique in the need to address the challenges of this success.

In response, the City has begun several initiatives seeking to address and mitigate these issues. A survey of ordinances from around the country has been compiled to provide background on how other communities have responded to the need for noise regulation. Both similar resort communities as well as large cities with vibrant mixed-use districts have been included.

In addition, the City has acquired more sophisticated noise measurement equipment that allows a digital record of a noise monitoring session to be downloaded to a computer for an accurate, lasting record. The program also allows for the comparison of typical background noise relative to specific over laid sources. Police officers have been trained in the use of this equipment and have begun to monitor noise levels at a variety of local venues to gain experience as well as understanding of the potential implementation of the proposed code.

The proposed ordinance has been provided to interested parties and the planning director has met with representatives of the entertainment venues.

3. Proposal Summary

The proposed amendments to Steamboat Springs' current noise ordinance address both standards and enforcement.

- Maximum noise levels in a commercial district during the evening hours would be raised from the current 55 decibels to 60 decibels.
- Evening hours would be defined as 11:00PM to 7:00AM rather than the current 7:00PM to 7:00AM.
- Better definition is provided as to what may be considered separate violations when excessive noise is either intermittent or continuous during the period of time that it is monitored.
- Reference is provided to the State Liquor Code to affirm that repeated noise ordinance violations may be considered a violation of the State's "conduct of business" regulations and therefore relevant to any hearings pertaining to liquor license renewal, suspension or revocation. This is current practice whether directly referenced or not and has been considered in license reviews in Telluride and Golden among other communities.

4. Next Steps

With the City Council's direction, staff will move the proposed ordinance to public hearing at Planning Commission and City Council. Staff also recommends continuing to work with all parties and the Responsible Hospitality Institute to implement strategies for cooperative working relationships based on common sense and appropriate courtesy and tolerance.

V. LIST OF ATTACHMENTS:

- Attachment 1. Proposed Ordinance Amending Article III, Chapter 7 of the Steamboat Springs Revised Municipal Code.
- Attachment 2. Public Comment.

DRAFT

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 7 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE

WHEREAS, the City of Steamboat Springs wishes to promote vibrant mixed-use districts within the community; and

WHEREAS, live music is a valued part of the community’s arts and entertainment offerings; and

WHEREAS, full time and vacation residential uses are an important component of active, 24 hour districts; and

WHEREAS, considerations for compatible design and operation of entertainment and residential uses are key to the success of our mixed-use districts; and

WHEREAS, clear enforceable standards are a necessary complement to appropriate courtesy and tolerance in mixed-use districts.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS THAT:

SECTION 1. Article III, Chapter 7 of the Steamboat Springs Revised Municipal Code is hereby amended to read as follows:

“ARTICLE III. NOISE POLLUTION.

Sec. 7.61 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Commercial zone* means:

- a. An area where offices, clinics and the facilities needed to serve them are located;
- b. An area with local shopping, entertainment and service establishments located within walking distances of the residents served;
- c. A tourist-oriented area where hotels, motels, retail, entertainment and services are located;
- d. A large integrated regional shopping center;
- e. A business strip along a main street containing offices, retail businesses and commercial enterprises;
- f. A central business district; or
- g. A commercially dominated mixed-use area with multiple-unit dwellings.

- (2) *db(A)* means sound levels in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, publication S1.4-1971, and approved by the industrial commission of the state.
- (3) *Decibel* is a unit used to express the magnitude of a change in sound level. The difference in decibels between two (2) sound pressure levels is twenty (20) times the common logarithm of their ratio. In sound pressure measurements sound levels are defined as twenty (20) times the common logarithm of the ratio of that sound pressure level to a reference level of 2×10^{-5} newtons per square meter. As an example of the effect of the formula, a three-decibel change is a one hundred (100) percent increase or decrease in the sound level, and a ten-decibel change is a one thousand (1,000) percent increase or decrease in the sound level.
- (4) *Industrial zone* means an area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activity, but shall not include agricultural operations.
- (5) *Light industrial and commercial zone* means:
 - a. An area containing clean and quiet research laboratories;
 - b. An area containing light industrial activities which are clean and quiet;
 - c. An area containing warehousing; or
 - d. An area in which other activities are conducted where the general environment is free from concentrated industrial activity.
- (6) *Residential zone* means an area of single-family or multifamily dwellings, where businesses may or may not be conducted in such dwellings. The zone includes an area where multiple-unit dwellings, high-rise apartment districts and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. The term "residential zone" includes hospitals, nursing homes and similar institutional facilities.

Sec. 7-62. - Exemptions.

- (a) *Emergency vehicles.* The requirements, prohibitions and terms of this article shall not apply to any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- (b) *Parades, fireworks and other special activities.* The terms of this article shall not apply to those activities of a temporary duration permitted by law for which a license or permit has been granted by the city, including but not limited to parades, and fireworks displays.
- (c) *Commercial refuse haulers.* The terms of this article shall not apply to the activities of commercial refuse haulers operating under a license issued pursuant to the provisions of division 2, of article II, of chapter 19 of this Code when such commercial refuse haulers operate between the hours of 5:00 a.m. and 7:00 a.m. in all industrial zone districts and in commercial zone districts located within Old Town, Ski Time Square, Gondola Square. For purposes of this subsection Old Town shall be deemed to be

the area bounded by Oak, Yampa, Third, and Twelfth Streets, including all lots accessible from said streets. Ski Time Square shall be deemed to be Ski Time Square Drive and all streets, alleys, and parking lots accessible from Ski Time Square Drive, and Gondola Square shall be deemed to be all streets, alleys, and parking lots serving Gondola Square and located east of Mt. Werner Circle, north of Apres Ski Way, and South of Ski Time Square.

Sec. 7-63. - Authority to grant relief from noise level standards.

(a) Applications for a permit for relief from the noise level designated in this article on the basis of undue hardship may be made to the city manager or his duly authorized representative. Any permit granted by the city manager under this section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The city manager or his duly authorized representative may grant the relief as applied for if he finds that:

- (1) Additional time is necessary for the applicant to alter or modify his activity or operation to comply with this article;
- (2) The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this article; or
- (3) No other reasonable alternative is available to the applicant.

(b) The city manager may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the surrounding neighborhood.

Sec. 7-64. - Prohibited noise generally.

(a) The making and creating of an excessive or unusually loud noise within the city as heard without measurement or heard and measured in the manner prescribed in section 7-65 is unlawful, except as exempted under the provisions of section 7-62 or when made under and in compliance with a permit issued pursuant to section 7-63 or 7-66.

(b) No person shall operate any type of vehicle, machine or device or carry on any other activity in such a manner as would be a violation of subsection (a) of this section.

Sec. 7-65. - Maximum noise levels.

For the purpose of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this article, the following test measurements and requirements may be applied; The point of measurement for determining violation shall be at the property line of the impacted property.

- (1) Every activity to which this article is applicable shall be conducted in a manner so that any noise produced is not objectionable due to intermittence, beat frequency or shrillness. Sound levels of noise radiating from any property in excess of the db(A) established for the following time periods and zones shall constitute prima facie evidence that such noise is a public nuisance:

Zone	7:00 a.m. to next 11:00 p.m.	11:00 p.m. to next 7:00 a.m.
------	---------------------------------	---------------------------------

Residential	55 db(A)	55 db(A)
Commercial	65 db(A)	60db(A)
Light industrial	70 db(A)	65 db(A)
Industrial	80 db(A)	75 db(A)
Agriculture and recreation (including parks and open space)	55db(A)	55db(A)

- (2) Intermittent violations by the same source separated in time by five (5) minutes or more may be considered individual violations within each five minute period.
- (3) Continuous violations from a single source exceeding 15 minutes in duration may be considered multiple violations for every 15 minutes the violation continues.
- (4) Periodic, impulsive noise including low frequency and/or shrill noises shall be considered a public nuisance when such noises are at a sound level of five (5) db(A) less than those listed in subsection (1) of this section.
- (5) This section is not intended to apply to the operation of aircraft or to other activities which are subject to federal law with respect to noise control.
- (6) Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority or, if no time limitation is imposed, for a reasonable period of time for completion of project. Construction projects in residential neighborhoods shall not exceed 55db(A).
- (7) All railroad rights-of-way shall be considered as industrial zones for the purposes of this section, and the operation of trains shall be subject to the maximum permissible noise levels specified for such zone.
- (8) This section is not applicable to the use of property for purposes of conducting speed or endurance events involving motor vehicles or other vehicles, but such exception is effective only during the specific period to time within which such use of the property is authorized by the political subdivision or governmental agency having lawful jurisdiction to authorize such use.
- (9) For the purposes of this section, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour.
- (10) In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement.
- (11) This section is not applicable to the use of property for the purpose of manufacturing, maintaining or grooming machine-made snow.
- (12) This article shall not apply to the operation of snow removal equipment for purposes of snow removal.

Sec. 7-66. - Use of vehicle equipped with loudspeaker, amplifier, etc.

It is unlawful to play, operate or use any device known as a sound truck, or any loudspeaker, sound amplifier, radio or phonograph with loudspeaker or sound amplifier, or instruments of any kind or character which emits loud or raucous noises and which is attached to and upon any vehicle upon a public place, unless the person in charge of such vehicle has first applied to and received permission from the city manager or his duly authorized representative to operate any such vehicle so equipped.

Sec. 7-67. - Muffler required on motor vehicles.

It is unlawful for any person to operate a motor vehicle which is not at all times equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cutout, bypass or similar muffler elimination appliance.

Sec. 7-68 – Penalties

(1) Individuals or businesses found to be in violation of the provisions of Article III, Noise Pollution shall be assessed fines as follows:

Number of Violations	Minimum Fine
1	\$250.00
2	\$500.00
3 or more	\$999.00

(2) In addition to the penalties for general violations of the City’s municipal code set forth in Sec. 1-15 entitled “General penalty; continuing violations”, or Sec. 7-68(1), a fourth or subsequent conviction for violating this Chapter 7 by a person licensed under Article 46, 47, or 48 of Title 12, Colorado Revised Statutes, generally referred to as the State Liquor Code, or by any employee or agent of such licensee, may be considered by the local liquor licensing authority as a violation of the “conduct of business” regulation of the state liquor code, currently set forth in Colorado Code of Regulations, 1 CCR 203-2, Regulation 47-900 entitled “Conduct of Establishment” and may be the basis for a suspension or revocation hearing for said liquor license, or for the non-renewal of said license.”

Section 2. The City Council hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety.

Section 3. That pursuant to Section 7-11 of the Charter of the City of Steamboat Springs, Colorado, the second publication of this ordinance may be by reference, utilizing the ordinance title.

Section 4. This ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

Section 5. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 6. A public hearing on this ordinance shall be held on _____, 2011, at 5:15 P.M. in the City Council Chambers at Centennial Hall, Steamboat Springs, Colorado.

INTRODUCED, READ AND ORDERED published, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the ____ day of _____, 2011.

x _____
Cari Hermacinski, President
Steamboat Springs City Council

Julie Franklin, City Clerk

FINALLY READ, PASSED AND APPROVED this ____ day of _____, 2011.

x _____
Cari Hermacinski, President
Steamboat Springs City Council

Julie Franklin, City Clerk

Anja Tribble

From: BRENDA DAVIS [bWASHINGTONDAVIS@sbcglobal.net]
Sent: Tuesday, April 05, 2011 11:33 AM
To: Tyler Gibbs; City Council; Anja Tribble; pilot editor
Cc: Ed Phillips
Subject: RE: Keep Steamboat Cool and Fun

Dear Mr. Gibbs and Ms. Tribble,
 Thank you both for the prompt responses to our email. We champion mixed uses, particularly as long as residents and guests understand the environment they have chosen to populate; an urban environment means there will be urban noise factors. It is abundantly clear the ordinance as currently proposed would be micro-managing at its worst and stifle small businesses in their efforts to provide a variety of entertainment options. Hopefully, the public process will change that.
 Thank you for your attention.
 Brenda Davis and Ed Phillips

--- On **Sun, 4/3/11**, Tyler Gibbs <tgibbs@steamboatsprings.net> wrote:

From: Tyler Gibbs <tgibbs@steamboatsprings.net>
 Subject: RE: Keep Steamboat Cool and Fun
 To: "BRENDA DAVIS" <bWASHINGTONDAVIS@sbcglobal.net>
 Cc: "Ed Phillips" <ephillips@philent.com>
 Date: Sunday, April 3, 2011, 10:38 AM

Dear Ms. Davis,

Thank you for contacting the City of Steamboat Springs regarding your interest in proposed revisions to Steamboat Springs' current noise ordinance.

As you are aware, controversy and conflicts between venues featuring live entertainment and surrounding residential uses have frequently been prominent public issues during the past year. The Steamboat Springs community recognizes the immense value of both a thriving entertainment scene as well as the ongoing revitalization of our downtown and mountain village as true mixed-use neighborhoods for our residents and guests. Like Steamboat, successful communities across the country have seen perhaps their most exciting renaissance in the vibrancy of their most diverse urban districts. Steamboat is not unique in the need to address the challenges of this success.

In response, the City has begun several initiatives seeking to address and mitigate these issues. Similar resort communities as well as large cities with vibrant mixed-use districts have been surveyed to see what we can learn from how they have responded this issue. While those comparisons are helpful we know we need a solution that will be right for Steamboat. In addition, the City has acquired more sophisticated noise measurement equipment and has begun to monitor noise levels at a variety of local venues to gain experience as well as understanding of the potential impact of proposed code changes.

On **Tuesday, April 5th** the County Council will be briefed on the work to date and as well as a draft noise ordinance proposal. This is an informational presentation only. This is not a hearing to adopt an ordinance. Public comment is welcome and

Previously e-mailed

encouraged as always.

The draft ordinance proposes the following changes to Steamboat's current code:

- Maximum noise levels in a commercial district during the evening hours would be raised from the current 55 decibels to 60 decibels.
- Evening hours would be defined as 11:00PM to 7:00AM rather than the current 7:00PM to 7:00AM.
- Better definition is provided as to what may be considered separate violations when excessive noise is either intermittent or continuous during the period of time that it is monitored.
- Reference is provided to the State Liquor Code to affirm that repeated noise ordinance violations may be considered a violation of the State's "conduct of business" regulations and therefore relevant to any hearings pertaining to liquor license renewal, suspension or revocation. This is current practice whether directly referenced or not and has been considered in license reviews in Telluride and Golden among other communities.

Next Steps

With the City Council's direction, staff will move the proposed ordinance to public hearing at Planning Commission and City Council. Staff also recommends continuing to work with all parties and the Responsible Hospitality Institute to implement strategies for cooperative working relationships based on common sense and appropriate courtesy and tolerance.

Tyler B. Gibbs, AIA
 Director of Planning and Community Development
 City of Steamboat Springs
 970-871-8244

From: BRENDA DAVIS [mailto:bwashingtondavis@sbcglobal.net]
Sent: Saturday, April 02, 2011 7:01 PM
To: Tyler Gibbs
Cc: Ed Phillips
Subject: Keep Steamboat Cool and Fun

Dear Mr. Gibbs,
 Steamboat Springs right now is a desirable tourist destination, and it would be unforgivable if a disenchanting "neighbor" were successful in getting a noise ordinance passed that would kill the trade for other business owners and the fun for visitors coming to hear live music. We strongly oppose the proposed noise ordinance that would cut the legs out from under the dancing, singing and having fun in Steamboat Springs. This unfriendly, anti-business measure is just the kind of thing that stifles the entrepreneurial efforts of the much-heralded, but seldom truly respected small business owner in this country. We urge you to put a stop to this ordinance now.
 Thanks for your help.

Previously e-mailed

3-11

5/3/2011

Anja Tribble

From: Anja Tribble
Sent: Thursday, April 07, 2011 9:31 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Thursday, April 07, 2011 9:30 AM
To: 'kkaminski@bkdistributing.com'
Subject: RE: [City Council] Noise Ordinance

Dear Kevin

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of kkaminski@bkdistributing.com
Sent: Thursday, April 07, 2011 8:51 AM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Kevin Kaminski sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

04-06-2011

To the Steamboat Springs City Council:

First off let me apologize for my sarcastic actions on Tuesday night, I realize the importance of your time and effort and those antics are not productive. So please accept my apology. But we are extremely frustrated to see this action taking place because of a person problem, not a noise problem. The council and the Steamboat Pilot are trying to make this sound like one of your local businesses waltzed into your meetings and asked for you to adjust and enforce a noise ordinance. Make no mistake that the Ghost Ranch Saloon had to defend themselves from a nuisance neighbor, who isn't even a resident, who was attacking through various means to harm their business. The city of Steamboat was then forced into a corner, by one party, not the Ghost Ranch, to look at the ordinance. I REPEAT, WE DIDN'T HAVE A NOISE PROBLEM, WE HAD A PERSON PROBLEM. This is our biggest concern; this was the exact reason that our company had to defend itself in a lawsuit over noise complaints a few years back.

With that being said, here are some hopeful suggestions for the new noise ordinance code, again for the attempt to solve this issue from being brought up again to council, and to be productive:

- 1) Set the code level of Dbs at 80Db (Day) - 75Db (Night)

This is certainly a reasonable level of noise if measuring from an adjacent property line. With factoring in the sound reduction of the actual living unit for example, doors, windows, and walls, this Db level will easily be lowered by a minimum of 35Db, therefore

Previously e-mailed

leaving the actual living quarters Db volume at an estimated 50Db(Day)-45Db(Night).

2) Set the code so that your staff, code enforcement, and the police will be triggered into action if there are a minimum of 3 noise complaints from 3 independent parties towards any one party.

This will help to ensure that your efforts and actions are going towards solving an actual noise problem, and eliminate unnecessary action because of a person problem. It will also make this code enforceable for your police and code enforcement agency because it will give them a focused point of attack.

3) Keep any and all liquor licenses out of the penalty language.

The purpose of this ordinance is to stop the noise problem, not to put the party out of business. The graduated penalty/fine system could be made painful enough to force the party to comply.

After talking with law enforcement, one of the biggest concerns is that for years the current code has not really been enforced. This is true in most communities, it is a fall back ordinance that gets triggered every once in awhile, usually because of a few complaining parties, not because of actual noise problems.

With these new guidelines added into your new ordinance you should have a code that is enforceable, reasonable, and effective in stopping noise problems.

Kevin Kaminski
248 Sundance Court
Steamboat Springs, CO 80487

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Thursday, April 07, 2011 1:47 PM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Thursday, April 07, 2011 1:46 PM
To: 'jmctague@fcgov.com'
Subject: RE: [City Council] Noise Ordinance

Dear Janet

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of jmctague@fcgov.com
Sent: Thursday, April 07, 2011 1:27 PM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Janet McTague sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Thank you all for your efforts regarding the noise ordinance. I spoke last night, very briefly, as I had not planned to speak and was not prepared, but would like to share some thoughts regarding our experiences as well as to respond to comments from last evening.

My husband and I have owned property on 7th and Yampa for over eight years. Steamboat had been our vacation destination of choice for 30 years and we sealed our commitment to the town with the purchase of a condo at the Residences of Old Town. We were sandwiched between SunPies and the Tap House. Occasionally, the noise would get loud, but not often enough that we were ever tempted to complain - after all, we lived downtown. We just shut our windows and everything was fine. We were enamored with the downtown for a multitude of reasons and when the opportunity presented itself, we purchased a condo at Howelsen Place. Even though the Old Corner Bookstore was our neighbor at the time, we had no misgivings about a music venue being constructed because we are music lovers and music volumes had not been an issue for us before. We soon realized that things would be different with the Ghost Ranch. The volumes frequently were loud enough that with windows closed, with A/C on, with the white noise of a fan or white noise on the Ipod, the music was loud and clear in our living room. We saw no results after multiple attempts at calling the GR to politely ask that the volume be turned down. Our preference would be to resolve the issue respectfully as neighbors, but after speaking with the owners of the Ghost Ranch last night following the council meeting, I am convinced that compromise and negotiation

Previously e-mailed

will not be effective and that it would be best to move forward with enhancements to the existing noise ordinance.

We certainly understand what is expected of us as downtown residents. We realize that we are trading tranquility for activity and that we should expect noise levels to be high at times. We also understand that a balance can be reached and it is our intention to be compromising and tolerant and part of a win-win situation. We value and patronize almost all of the businesses downtown, including the Ghost Ranch. We support moving forward with the ordinance to define and encourage a respectful balance.

Lastly, I would like to offer a few comments regarding issues brought up during the meeting;

- We have not made complaints because we knew that the issue was already well-known and that progress was being made to resolve it. I'm quite certain that others have chosen the same path so that just the number of complaints doesn't necessarily indicate non-existence of a problem.

- The consultant made a very good point when he listed "unexpected noise" as a source of complaint. Certainly the rodeo, diners on a patio, fireworks, etc. don't fall under this category and exclusion of these venues, especially before 11:00pm seems to make sense and should calm the fears of some restaurant/bar owners.

- Some speakers requested that the decibel level be that of an entertainment district rather than a mixed-use district. We would urge that the mixed-use district level be considered and appreciate Council requesting more information in this regard.

- We would urge Council not to equate vibrant with loud, but rather with dynamic, eventful, diverse, lively and balanced.

As said before, we appreciate the hard work that you all and City staff have put in on behalf of all Steamboat residents.

Kind regards,
Janet McTague
(970)690-5448

Anja Tribble

From: Anja Tribble
Sent: Friday, April 08, 2011 10:04 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Issues in Downtown Steamboat

-----Original Message-----

From: Anja Tribble
Sent: Friday, April 08, 2011 10:04 AM
To: 'patrickphillips2@gmail.com'
Subject: RE: [City Council] Noise Issues in Downtown Steamboat

Dear Patrick

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of patrickphillips2@gmail.com
Sent: Friday, April 08, 2011 9:35 AM
To: Anja Tribble
Subject: [City Council] Noise Issues in Downtown Steamboat

Patrick Phillips sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

To the Members of the Council:

We have followed with interest the public discussion related to the noise issues in downtown Steamboat. We recently purchased a condominium at Howelsen Place. Our unit is located on the third floor of the Lincoln building, directly across from the Ghost Ranch Saloon. After many trips to Steamboat over the years, we first visited Howelsen Place a little more than a year ago, and signed a contract to purchase the unit last October. We took about six months to close the deal because during a visit in November, while staying in another Howelsen unit, we experienced the nighttime noise issue firsthand. While we fully expected a lively downtown, we were frankly shocked by the noise coming out of the Ghost Ranch. We walked around downtown that night and found a number of other active bars with live music. From what we experienced, none of these other venues would have posed a problem. It struck us that the building housing the Ghost Ranch wasn't particularly suitable for the kind of acts they were booking, and that the business was being operated with little regard for its impact on surrounding businesses and residents. We immediately notified the developer that we couldn't close the deal until we learned more about this issue.

Subsequent discussions with Howelsen Place, including a meeting with Ty Gibbs in January, centered on the city's response to the issue, the nature of the public debate, the noise measurements that had been taken, and the upcoming proposal to revise the noise ordinance. We also stayed at the project again and found the Ghost Ranch somewhat quieter than we had experienced last Fall. We were sufficiently reassured to go ahead and complete the transaction. We're now getting the place ready and are looking forward to spending time

Previously e-mailed

in Steamboat this summer. We recognize that some level of noise is inevitable downtown, and as part of the improvements we're investing several thousand dollars to install more soundproof windows.

We encourage you and the other city leaders to continue to engage this issue. A healthy and vibrant downtown has to balance a number of interests, and each stakeholder has to take a respectful stance toward the others. A clear policy and regulatory framework can help set the ground rules and expectations for behavior. I've reviewed the proposed ordinance. It's fair, it's clear, and it's reasonable. It allows for nighttime entertainment to continue to thrive, and it helps protect the interests of and investment made by neighboring businesses and residents. This balance has been achieved in many communities across the nation through responsible management, with the government, business owners and managers, and residents working together. There is no reason it can't also be achieved in Steamboat.

We appreciate your leadership and look forward to deepening our relationship with the Steamboat community.

Sincerely yours,

Patrick Phillips
Debra Stencil

Anja Tribble

From: Anja Tribble
Sent: Monday, April 11, 2011 8:39 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:39 AM
To: 'kbeauvais@coldwellbanker.com'
Subject: RE: [City Council] Noise Ordinance

Dear Karen and Mix
Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of kbeauvais@coldwellbanker.com
Sent: Friday, April 08, 2011 2:19 PM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Karen and Mix Beauvais sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear City Council Members,
As long time Steamboat residents, we are excited about the changes that have occurred in downtown Steamboat Springs. Lincoln Avenue with all of the new buildings, the new roadway, the bus stops, and the wonderfully increased activity both during the day and at night. We are in favor of the current Noise Ordinance that is in place and hope that you will not increase the levels of noise permitted at this time. Sincerely, Karen and Mix Beauvais

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Monday, April 11, 2011 8:41 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Ghost Ranch noise ordinance

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:40 AM
To: 'aileenstorey@hotmail.com'
Subject: RE: [City Council] Ghost Ranch noise ordinance

Dear Allie

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of aileenstorey@hotmail.com
Sent: Saturday, April 09, 2011 8:40 AM
To: Anja Tribble
Subject: [City Council] Ghost Ranch noise ordinance

Allie Storey sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear City Council,

We are writing in response to the city council meeting regarding the noise ordinance issue with The Ghost Ranch. We are owners at Howelson Place and are long time fans of Steamboat Springs. One of the reasons we love Steamboat is it's hospitality to visitors and the vibrant downtown. However, our views quickly changed when the Ghost Ranch opened. We were up there for the 4th of July and Christmas. We diligently locked our windows at night, used ear plugs and the white noise machine. None of that worked. After 11 pm we still were hearing every word to every song. Some nights there were such profane language that we were embarrassed as my parents and teenagers were with us. When I politely called to talk with the manager she was very rude and laughed at me. I even called the Sherrifs office, and sent the city council a complaint. We had been eating out every night and skiing and shopping. Because of the loud, uncontrollable noise, we left 3 days early both times as no one in my family could get a good night's sleep. Because of this issue, the city is consistently losing revenue which is unfortunate, because it could easily be solved if we work together as neighbors. We have never heard noise from The Tap House, The Boathouse, The Rio, etc. They have always controlled the noise level and have been great neighbors. I find it interesting that other mountain towns such as Aspen, Vail and Telluride have a city ordinance that the decibals cannot be audible between 50 to 60 and still have a vibrant community. Yes, we chose to live downtown and we expected some noise at night. However, when the noise is continuing to

Previously e-mailed

destroy our right as homeowners to enjoy our property, it is an infringement that is a legal issue that has to be resolved. This issue has been going on for years.

We would hope that the Ghost Ranch owner would understand that it is something that can be worked out as a win win. It can be worked out without rude and childlike behavior that is creating a very volital situation. We hope that the city council can help resolve this very pressing issue and we appreciate the amount of time that it is taking to fix this issue.

Thank you for your time,
Allie Storey

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Monday, April 11, 2011 8:43 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:42 AM
To: 'toekneel04@hotmail.com'
Subject: RE: [City Council] Noise Ordinance

Dear Toni

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of toekneel04@hotmail.com
Sent: Saturday, April 09, 2011 1:38 PM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Toni Hennessy sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I am in favor of maintaining the current noise ordinance restrictions. If the ordinance needs clarification in order to be enforced, then that should be the only issue at hand, not changing the noise level allowances.

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 12, 2011 8:15 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 12, 2011 8:15 AM
To: 'scott@mybrokers.com'
Subject: RE: [City Council] Noise Ordinance

Dear Scott
Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of scott@mybrokers.com
Sent: Monday, April 11, 2011 2:45 PM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Scott Wither sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear City Council Members,

As long time Steamboat residents, we are excited about the changes that have occurred in downtown Steamboat Springs. Lincoln Avenue with all of the new buildings, the new roadway, the bus stops, and the wonderfully increased activity both during the day and at night. We are in favor of the current Noise Ordinance that is in place and hope that you will not increase the levels of noise permitted at this time.

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 12, 2011 8:17 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 12, 2011 8:16 AM
To: 'manley.abby@gmail.com'
Subject: RE: [City Council] Noise Ordinance

Dear Abby

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of manley.abby@gmail.com
Sent: Monday, April 11, 2011 3:09 PM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Abby Manley sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I am a homeowner in downtown Steamboat Springs at Howelsen Place. The current discussion concerning the noise ordinance is a very important issue. The ordinance should allow individuals to enjoy all that downtown Steamboat has to offer but also respect those individuals and families who live in mixed use buildings. As owners we understand the lifestyle we have signed up for by purchasing downtown property but would expect some basic understanding from those individuals spending time downtown concerning overall evening and early morning noises from plows to garbage trucks, drunks to music venues, bar entrances/exits to car alarms. Please make downtown Steamboat something everyone can enjoy and use together.

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 12, 2011 8:18 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 12, 2011 8:17 AM
To: 'hcs5234@gmail.com'
Subject: RE: [City Council] Noise Ordinance

Dear Patrick

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of hcs5234@gmail.com
Sent: Monday, April 11, 2011 4:35 PM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Patrick Burke sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear Sirs:

We love your city. The people and the great downtown atmosphere is such a treat for me and my family. We reside in Denver and own a condominium at Howelsen Place. I am very sorry to have to weigh in on the noise ordinance issue as I would never want to inhibit the ability of a business owner to make his or her investment pay off. Unfortunately, the noise from the Ghost Ranch Saloon is just plain disrespectful and unnecessary. I hope that you will find a way to strike a balance with those that have invested in personal property and those that have invested in a business. Thank you for considering everyone's perspective.

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 12, 2011 8:19 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 12, 2011 8:19 AM
To: 'cullen970@gmail.com'
Subject: RE: [City Council] Noise Ordinance

Dear Linda

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of cullen970@gmail.com
Sent: Monday, April 11, 2011 8:35 PM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Linda Cullen sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear City Council,

As both residents and members of the local business community, we support a noise ordinance similar to those used by comparable communities with residential properties in their downtown. We understand there are many examples of successful ordinances that do not detract from the vitality of a downtown experience.

Noise ordinances are very common in mixed residential/commercial communities and they add to the experience, not detract. If all the members of our business community followed similar rules it is very easy to comply with a noise ordinance. It is not ok for all but one of our nightlife establishments to follow basic guidelines for a music venue. Clearly the majority understand the benefits of being a good neighbor.

Thank you for working so diligently on this issue and we look forward to participating in the process. Below are examples of ordinances in other communities:

CITY DAYTIME EVENING POINT OF MEASUREMENT

1. Steamboat - current 7am-7pm 60dBA 7pm-7am 55dBA 25' from Prop line of source
2. Steamboat - proposed 7am-11pm 65dBA 11pm-7am 60dBA Prop line of impacted property (We think this needs to be changed to Prop line of source to be consistent).
3. Telluride, CO cannot be audible at any time from 50' from Prop line of

Previously e-mailed

source

4. Vail, CO 7am-11pm 65dBA 11pm-7am 60dBA Prop line of source
 5. Aspen, CO 7am-11pm 65dBA 11pm-7am 60dBA Prop line of source
 6. Park City, UT cannot be audible beyond Prop line of source after 10pm
 7. Denver, CO 7am-10pm 65dBA 10pm-7am 60dBA Prop line of impacted property
- Here are five key points to keep in focus when reviewing this important issue:

- 1) Everyone downtown today made their investment with a more restrictive set of rules in-place to govern noise.
 - 2) Over \$50million dollars has been invested in mixed-use development. We have made the commitment to residents living in our downtown.
 - 3) The ordinance is reasonable and customary - in fact its more liberal ("loud") than any peer like Telluride, Aspen, Vail, Denver or Boulder.
 - 4) Music venues can readily comply with the proposed ordinance. Old Town Pub testified at the hearing that they were in full compliance of the current ordinance with a live band on Fat Tuesday during Mardi Gras. They confirmed that they put the band in the back, managed the volume, kept the windows closed, and have built a vestibule. Reasonable procedures for a music venue in a mixed-use community. We all have obligations as neighbors and part of the community.
 - 5) We are neighbors. We are Steamboat. We can create win-win here for all. Let's work together cooperatively, as neighbors, to that end.
- Sincerely,

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 12, 2011 2:08 PM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] noise ordinance

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 12, 2011 2:07 PM
To: 'mdwilliams14@steamboatwireless.com'
Subject: RE: [City Council] noise ordinance

Dear Michael and Judi
Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of mdwilliams14@steamboatwireless.com
Sent: Tuesday, April 12, 2011 11:48 AM
To: Anja Tribble
Subject: [City Council] noise ordinance

Michael and Judi Williams sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

We are in full support of the proposed noise ordinance (proposed by Mark Scully and his partnership) as written. It allows for all parties to co-exist and is consistent with other cities in both the mountains and in Denver. We have been in both the residential units that are most affected and the Ghost Ranch Saloon. The Ghost Ranch offers a fun and unique venue for Steamboat but it often has its doors and windows open late at night, a high volume band located next to the front door and guests spilling onto the street. We can do better than this and have all affected parties still have their fun and enjoy their property.

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 12, 2011 2:11 PM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Downtown Noise Issues

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 12, 2011 2:10 PM
To: 'joecashen@comcast.net'
Subject: RE: [City Council] Downtown Noise Issues

Dear Joe

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of joecashen@comcast.net
Sent: Tuesday, April 12, 2011 1:38 PM
To: Anja Tribble
Subject: [City Council] Downtown Noise Issues

Joe Cashen sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I support a balanced downtown environment, where residents and businesses can co-exist and work together to find solutions for a workable noise ordinance.

Noise downtown is an issue. Some of it comes from the Ghost Ranch Saloon, Sun Pies, Boathouse and Old Town Pubs. Some noise comes from smokers hanging outside any given bar. Some of it comes from the city's snow removal equipment working throughout the night, and some of it is simply ambient downtown noise. The train even tends to make some noise from time to time.

Controlling the noise that directly comes from the bars only addresses part of the issue. As the clock strikes midnight downtown, vibrancy tends to transform into vagrancy. Some of the late-night noise downtown is behavioral, without a specific business or venue to blame as the source. Businesses certainly can't be responsible for the conduct of their patrons once they leave, yet we must find a way to instill a sense of courtesy and respect among those late-night parties strolling the streets.

As a community we want a vibrant downtown with restaurants, night clubs, shopping, and residential uses, including vacation lodging. Finding the right balance is key, and I don't think we're currently too far off in any direction.

Anja Tribble

From: Anja Tribble
Sent: Friday, April 15, 2011 11:36 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] noise ordinance

-----Original Message-----

From: Anja Tribble
Sent: Friday, April 15, 2011 11:36 AM
To: 'kristinawallick@msn.com'
Subject: RE: [City Council] noise ordinance

Dear Kristin and Tim
Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of kristinawallick@msn.com
Sent: Thursday, April 14, 2011 7:16 PM
To: Anja Tribble
Subject: [City Council] noise ordinance

Kristin and Tim Wallick sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear City Council,

As both residents and patrons of the local business community, we support a noise ordinance similar to those used by comparable communities with residential properties in their downtown. We understand there are many examples of successful ordinances that do not detract from the vitality of a downtown experience.

Noise ordinances are very common in mixed residential/commercial communities and they add to the experience, not detract. If all the members of our business community followed similar rules it is very easy to comply with a noise ordinance. It is not ok for all but one of our nightlife establishments to follow basic guidelines for a music venue. Clearly the majority understand the benefits of being a good neighbor.

Thank you for working so diligently on this issue and we look forward to participating in the process. Below are examples of ordinances in other communities:

CITY	MEASUREMENT	EVENING	POINT OF	DAYTIME
1.	Steamboat - current	7pm-7am 55dBA	25' from Prop line of source	7am-7pm 60dBA
2.	Steamboat - proposed			7am-11pm 65dBA 11pm-7am

Previously e-mailed

- 60dBA Prop line of impacted property (We think this needs to be changed to Prop line of source to be consistent).
3. Telluride, CO cannot be audible at any time from 50' from Prop line of source
 4. Vail, CO 7am-11pm 65dBA
11pm-7am 60dBA Prop line of source
 5. Aspen, CO 7am-11pm 65dBA
11pm-7am 60dBA Prop line of source
 6. Park City, UT cannot be audible beyond Prop line of source after 10pm
 7. Denver, CO 7am-10pm 65dBA
10pm-7am 60dBA Prop line of impacted property

Here are five key points to keep in focus when reviewing this important issue:

- 1) Everyone downtown today made their investment with a more restrictive set of rules in-place to govern noise.
- 2) Over \$50million dollars has been invested in mixed-use development. We have made the commitment to residents living in our downtown.
- 3) The ordinance is reasonable and customary - in fact its more liberal ("loud") than any peer like Telluride, Aspen, Vail, Denver or Boulder.
- 4) Music venues can readily comply with the proposed ordinance. Old Town Pub testified at the hearing that they were in full compliance of the current ordinance with a live band on Fat Tuesday during Mardi Gras. They confirmed that they put the band in the back, managed the volume, kept the windows closed, and have built a vestibule. Reasonable procedures for a music venue in a mixed-use community. We all have obligations as neighbors and part of the community.
- 5) We are neighbors. We are Steamboat. We can create win-win here for all. Let's work together cooperatively, as neighbors, to that end.

Sincerely,

Kristin and Tim Wallick

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 19, 2011 8:48 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 19, 2011 8:47 AM
To: 'chris.finklea@att.net'
Subject: RE: [City Council] Noise Ordinance

Dear Chris and Chantil
Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of chris.finklea@att.net
Sent: Saturday, April 16, 2011 11:45 PM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Chris Finklea sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

My wife and I recently purchased a condo in Howelsen Place. Our primary residence is near downtown Houston where we have lived in a high rise condo for the last nine years. We love the downtown living in both cities, especially the dining and live entertainment. With that being said, we are concerned about the high noise levels coming from Ghost Ranch every night. Our condo faces west toward 8th Street, yet we can easily hear the noise even with our windows closed. We had family visit us recently who rented a condo in Howelsen Place that faced Ghost Ranch. I honestly don't think they slept the entire visit. I understand that some noise will be a part of any downtown environment, but the noise coming from Ghost Ranch is excessive. Therefore, we support the noise ordinance as it is currently proposed.

Chris & Chantil Finklea

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 19, 2011 9:16 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 19, 2011 9:16 AM
To: 'jstamer@pwcompany.com'
Subject: RE: [City Council] Noise Ordinance

Dear Jim and Kathy

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of jstamer@pwcompany.com
Sent: Monday, April 18, 2011 9:29 AM
To: Anja Tribble
Subject: [City Council] Noise Ordinance

Jim Stamer sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear Members of the City Council,

In 2010 my family purchased a home in Steamboat Springs. We had interest in Park City and the Canyons but chose Steamboat Springs. We preferred Steamboats' urban environment, as opposed to being "on the mountain" as it provides easy access to restaurants, shopping and entertainment venues and to the special events that the town hosts.

Our unit is in Howelson Place. We have young children that have been disturbed during their sleep by the level of noise from the nearby nightlife. The City Planning Director on April 5th presented to the City Council a proposed noise ordinance that is less restrictive than that currently adopted.

Proposed: Steamboat - from 7am-11pm 65dBA - from 11pm-7am 60dBA - from property line of impacted property

We oppose the proposed noise ordinance presented on April 5, 2011.

We encourage the City Council to revisit this issue and in fact endorse and adopt a plan that is enforceable and follows other like minded Town/City Councils with vibrant urban communities.

Similar urban areas in Colorado:

- Telluride, CO - cannot be audible at any time from 50' from property line of the source
- Vail, CO - from 7am-11pm 65dBA - from 11pm-7am 60dBA - from property line of source
- Aspen, CO - from 7am-11pm 65dBA - from 11pm-7am 60dBA - from

Previously e-mailed

property line of source

- Park City, UT - cannot be audible beyond Prop line of source after 10pm

We encourage you to adopt a similar ordinance by following the above successful similar urban areas that have set the precedent.

We request that you minimally consider keeping the existing noise ordinance but modifying it to the "property line of the source."

Clearly all parties in an urban environment must coexist and do so in cities across the country. We have three children (ages 24, 14 and 10) who enjoy a variety of music and sport venues. We believe that Steamboat is a great town and as such understands "balance" between residential, retail and entertainment.

Sincerely,

Jim and Kathy Stamer

700 Yampa St. Unit A-204

Steamboat Springs, Colorado 80487

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 19, 2011 9:49 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] Proposed Noise Ordinance

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 19, 2011 9:48 AM
To: 'jim@mybrokers.com'
Subject: RE: [City Council] Proposed Noise Ordinance

Dear Jim

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of jim@mybrokers.com
Sent: Tuesday, April 19, 2011 9:35 AM
To: Anja Tribble
Subject: [City Council] Proposed Noise Ordinance

Jim Cook sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Members Of City Council:

I have been asked by several downtown business people to chime in on the proposed Noise Ordinance. I must admit that I have read about some of the conflicts as reported in the news with a little bit of a wry smile. During the entitlement process for Alpen Glow, Howelsen Place and River Walk, my (our) vision for the re-birth of the downtown area was to create a vibrant community of walking urbanity. A place where people could recreate, be entertained, dine and live. The interesting fact that was lost on a lot of the various planning commissions and councils was that the "living" part of the plan was a result of the entertainment, dining and recreating. In communities across the nation that were re-inventing their downtowns and were fortunate enough to have live water running through it, three factors repeated themselves time and time again:

1. Entertainment development is the key to drawing residential development.
2. The downtown will always grow towards the river.
3. Parking problems are not bad problems and can be solved.

Take a look at where we are today as compared to just a short 5 years ago. We have five beautiful new mixed use buildings, a permanent music venue, an art museum, a new library, two new restaurants on the river, and a vibrancy that downtown has never experienced before. The excitement of walking down Yampa in the summer time with the shoulder to shoulder visitors sends out a clear message, we have done something right !!

Previously e-mailed

As it is with too much of a good thing, it is probably time to strike a balance between those factors that have created our success. The timing for a new Noise Ordinance is probably very good right now. Had we not experienced the slow down created by the economic down turn, I dare say that the need for such an ordinance would have been even more exacerbated then the current situation. I must also suggest that such an ordinance be a living document, as it will be challenged in the future as more entertainment venues are created, specifically in the Yampa Street area. We must always keep a balance to keep us vital !

Having read through some of the ordiances of mountain communties such as ours, I probably favor the terms of the Park City example. Using the "line of source after 10:00PM" allows for outdoor concerts in late afternoon and early evening events in the summer when it is still light. After 10:00 directly handles the issue with indoor venues that creat most of the problems (or excitement depending upon your perspective). This should make enforcement easier. I would also suggest that special permits be available for outdoor events that could run longer, but cap it at 11:00 PM. I am reminded that on the 4th of July there a lot of things that could exceed the 10:00 PM cap.

These are my thoughts for what it is worth. Personally, like the parking, I think it is a good problem to have. As to the parking, that is a conversation for another day.

Regards,

Jim Cook

Anja Tribble

From: Anja Tribble
Sent: Thursday, April 21, 2011 10:17 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] City noise ordinance

-----Original Message-----

From: Anja Tribble
Sent: Thursday, April 21, 2011 10:15 AM
To: 'mrjclark@hotmail.com'
Subject: RE: [City Council] City noise ordinance

Dear Joshua

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of mrjclark@hotmail.com
Sent: Thursday, April 21, 2011 9:59 AM
To: Anja Tribble
Subject: [City Council] City noise ordinance

Joshua Clark sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I am writing to inform you that I support the proposed city noise ordinance. Being a resident of Alpen Glow I have had my share of negative experiences w/ downtown noise. Thank you

Anja Tribble

From: Anja Tribble
Sent: Friday, April 22, 2011 8:28 AM
To: Tyler Gibbs
Subject: FW: Noise ordinance



noise letter.pdf (46 KB)

-----Original Message-----

From: Anja Tribble
Sent: Friday, April 22, 2011 8:27 AM
To: 'dan@thpk.com'
Subject: RE: Noise ordinance

Dear Dan

Thank you for your comment. City Council has received your e-mail, and it has also been forwarded to the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

From: dan [dan@thpk.com]
Sent: Monday, April 18, 2011 8:33 AM
To: City Council
Subject: Noise ordinance

[cid:image001.jpg@01CBFDA3.4E1A3CB0]

Daniel H. Bonner, CPA
330 S. Lincoln Avenue, Suite 101
P.O. Box 773027
Steamboat Springs, CO 80477
(970) 879-1787
dan@thpk.com

Privileged/Confidential Information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case, you should destroy this message, and notify us immediately. Opinions, conclusions and other information expressed in this message are not given or endorsed by my firm or employer unless otherwise indicated by an authorized representative independent of this message.

Any tax advice contained in the body of this e-mail was not intended or written to be used, and cannot be used, by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

Previously e-mailed

Dear City Council,

As both residents and members of the local business community, we support a noise ordinance similar to those used by comparable communities with mixed-use and residential properties in their downtown. There are many examples of successful, balanced ordinances that have contributed to the creation of a vibrant downtown experience. These downtowns create a place that visitors and locals alike come to enjoy. It is the integration of the various uses from retail/restaurants to residential to music venues that creates the magic.

Noise ordinances are very common in mixed residential/commercial communities and they add to the experience, not detract. It is clear that all venues can comply with the proposed ordinance – they are long standing in these other communities. The Old Town Pub owner and Ghost Ranch owners both testified at city council on April 5th that they can comply with the proposed ordinance with some effort.

Below is a chart showing how our ordinance compares to other Colorado Communities:

CITY	DAYTIME	EVENING	POINT OF MEASUREMENT
1. Steamboat – current	7am-7pm 60dBA	7pm-7am 55dBA	25' from Prop line of source
2. Steamboat – proposed	7am-11pm 65dBA	11pm-7am 60dBA	Prop line of impacted property
3. Telluride, CO	cannot be audible at any time from 50' from Prop line of source		Prop line of source
4. Vail, CO	7am-11pm 65dBA	11pm-7am 60dBA	Prop line of source
5. Aspen, CO	7am-11pm 65dBA	11pm-7am 60dBA	Prop line of source
6. Denver, CO	7am-10pm 65dBA	10pm-7am 60dBA	Prop line of impacted property

Here are four key points to keep in focus when reviewing this important issue:

- 1) Everyone downtown today made their investment decision with a set of rules in-place to govern noise. The proposed noise ordinance is not more restrictive.
- 2) Steamboat has made a commitment to growing its downtown residential, mixed use base with urban infill. This requires corresponding ordinances.
- 3) The proposed ordinance is reasonable and customary and proven in vibrant towns from Aspen to Vail to Denver/Lodo.
- 4) Music venues can readily comply with the proposed ordinance. Old Town Pub testified at the hearing that they were in full compliance of the current ordinance with a live band on Fat Tuesday during Mardi Gras using reasonable procedures for a music venue in a mixed-use community.

Thank you for working so diligently on this issue and we look forward to participating in the process.

Sincerely,



Daniel H. Bonner, CPA

Previously e-mailed

Previously e-mailed



May 11, 2011

City of Steamboat Springs
City Council

RE: Noise Ordinance Revision

Dear Members of Council,

I am writing to support the revision of the current noise ordinance. While the current ordinance is the standard for the State of Colorado, it is written in way that is difficult to enforce. Revising the ordinance will confirm the City's commitment to a healthy downtown mixed-use community while respecting both the commercial and residential interests.

The current ordinance has the decibel reading 25 feet from the property line of the source. I believe this aspect should be revised in the proposed ordinance to a reading at the property line of the source, rather than the proposed reading at the line of the impacted property. Because different properties are located at different distances from each other, a consistent distance with a consistent reading level would still be difficult to decipher and enforce.

I support the proposed decibel level readings and their proposed hours. The extended hours for higher noise levels allows the downtown nightlife to be very minimally impacted by the revised ordinance. This proposed ordinance is more liberal than those of many mountain communities and major cities across the country, including Vail, Aspen, Telluride and Boulder. These communities all feature vibrant, successful downtowns and they have not been negatively impacted by their more restrictive noise ordinances.

Music venues can easily comply with the revised ordinance with simple changes like keeping windows and doors closed, managing the volume and keeping live bands away from building entrances. Outdoor dining will not be impacted by the ordinance any more so then it currently is. These are reasonable changes that can be done to create a downtown environment that is friendly to both businesses and residents.

The diversity of downtown is what creates a special place that residents and visitors enjoy year round. A balanced approach to noise control will only enhance the attractiveness of the area and provide an enjoyable experience for everyone.

Sincerely,


Eric P. Smith
ESA Architects, P.C.

Previously e-mailed

April 29, 2011

Honorable Members of City Council
City of Steamboat Springs
P.O. box 775808
Steamboat Springs, Colorado 80477

RE: Noise Ordinance

Dear Honorable Members of City Council,

We all understand the importance of tourism to our local economy. In order to be an attractive tourism destination we need BOTH nightlife and residential/rental enjoyment in downtown Steamboat Springs. The city of Steamboat Springs has made a commitment to mixed usage in downtown and I am excited about our 'new and improved' downtown and its bright future.

There are many examples of successful, balanced ordinances that have contributed to the creation of a vibrant downtown experience. These downtowns create a place that visitors and locals alike come to enjoy. It is the integration of the various uses from retail/restaurants to residential to music venues that creates the magic.

I attended the City Council meeting on April 5th in order to be better educated on this topic. I feel I now have a better understanding about noise ordinances and frankly I was unaware that we had one. With that being said, I support the purposed staff recommended ordinance. I learned on April 5th that most communities have these for a reason. As our downtown grows we need checks and balances just in case neighbors cannot work it out. I believe for the most part we have very few noise complaints in Steamboat Springs. It is Resort Groups' hope that you can find a solution that works for all parties to continue to support nightlife, live music and residential/rental enjoyment.

Thank you for all you do for this community.

Respectfully,

A handwritten signature in blue ink that reads "Mark Walker". The signature is fluid and cursive, with the first name "Mark" being larger and more prominent than the last name "Walker".

Mark Walker
Vice President
Resort Group LLC.

Previously e-mailed

3-40

Anja Tribble

From: Julie Franklin
Sent: Friday, May 13, 2011 9:03 AM
To: City Council
Cc: Anja Tribble
Subject: FW: [City Council] Noise Ordinance

-----Original Message-----

From: Julie Franklin
Sent: Thursday, May 12, 2011 4:52 PM
To: 'mtnsmiths2k@msn.com'
Cc: Wendy DuBord; Jon Roberts; 'Tony Lettunich'; Tyler Gibbs; Anja Tribble
Subject: RE: [City Council] Noise Ordinance

Brian,
Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of mtnsmiths2k@msn.com
Sent: Thursday, May 12, 2011 4:36 PM
To: Julie Franklin; Anja Tribble
Subject: [City Council] Noise Ordinance

Brian Smith sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

City Council,
Just wanted to say, that I have listened to the discussions at the last meeting in regards to the noise ordinance, and as a home owner, I still believe this ordinance is NOT business or community friendly.
I have high hopes for instance what Yampa street is going to be in the future, and by putting these kinds of regulations in place, I think we are setting Yampa up to be just like Lincoln...more T-Shirt shops. We need a thriving downtown, a lively downtown, this ordinance will only make it more difficult to attract the type of business's that Steamboat needs downtown and for that matter at the base of the ski area. We need more dinning/nightlife establishments, don't put the locks on them.
Thank you for your consideration, I voted for some of you because I believe in you, and I really hope you do the right thing, don't just follow what the minority wants because it will be easy and keep them quiet.
Thanks again,
Brian Smith
331 Cherry Drive

AGENDA ITEM # 4

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, Staff Attorney (Ext. 223)

THROUGH: Jon Roberts, City Manager

DATE: May 17, 2011

ITEM: DISCUSSION OF EXERCISING HB 10-1284 LOCAL OPTION TO BAN MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION, AND MEDICAL MARIJUANA INFUSED PRODUCTS MANUFACTURING. (Foote)

NEXT STEP: Direction to staff

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

I. REQUEST OR ISSUE:

Provide direction regarding the possible exercise of the City's option to ban certain types of medical marijuana businesses.

II. BACKGROUND INFORMATION:

Article XVIII, Section 14 of the Colorado Constitution, which was approved by the voters in 2000 as Amendment 20, authorizes medical marijuana patients and their primary caregivers to cultivate, possess, and dispense medical marijuana. Amendment 20 did not initially result in the development of a commercial medical marijuana industry in Colorado, presumably because the cultivation and distribution of marijuana for medical purposes remains illegal under federal law.

In 2009 the Justice Department released a memorandum from Deputy Attorney General Ogden (the "Ogden Memo") in which the Justice Department directed law enforcement that prosecution of persons engaged in medical uses of marijuana should be a low priority. Shortly after publication of the Ogden memo, medical marijuana dispensaries began operating openly in many Colorado cities, including Steamboat Springs.

Although Amendment 20 did not specifically authorize dispensary operations, many dispensaries claimed to be operating as primary caregivers for each of their patients. Colorado state courts accepted this formulation in concept, but interpreted “caregiver” to mean that the caregiver must provide some service other than merely supplying marijuana to a patient.

The City Council on January 5, 2010 adopted Ordinance No. 2296 to license and regulate the operation of medical marijuana dispensaries in Steamboat Springs. Ordinance No. 2296 was drafted to regulate dispensaries operating pursuant to Amendment 20. The City has, pursuant to Ordinance No. 2296, licensed the operation of three medical marijuana dispensaries in the City of Steamboat Springs. Each of these operators has since obtained administrative approval to operate at least one off premise cultivation site.

Dissatisfaction with the caregiver model and the general state of the industry led the Colorado General Assembly to adopt legislation, HB 10-1284, that substantially revised the status of medical marijuana retailers. HB 1284 has two major parts. The first limits primary caregivers to no more than five patients each. This provision effectively eliminates the ability of caregivers to operate as medical marijuana dispensaries, i.e. large scale retail outlets.

The second part of HB 1284 authorizes the operation of three types of licensed medical marijuana businesses: medical marijuana center (“MMC”), optional premises cultivation (“OPC”), and medical marijuana infused products manufacturers (“MIP”)

An MMC is a business that sells medical marijuana to patients. An MMC may cultivate medical marijuana on site and is required to cultivate at least 70% of the product it sells.

An MMC wishing to cultivate medical marijuana off site may operate an OPC. An OPC is merely the cultivation of medical marijuana by a center at a different location. Only a licensed MMC or MIP may obtain a state license for optional premises cultivation.

A MIP is a manufacturer of foods, beverages, tinctures, lotions, or any other product containing marijuana that is used or consumed by any means other than smoking.

In short, HB 10-1284 provides existing dispensary operators with a much clearer legal basis than Amendment 20 for the exemption of dispensaries from state criminal laws prohibiting the cultivation and distribution of marijuana. In particular, HB 10-1284 eliminates any need for a dispensary to operate as a caregiver.

The City Council has approved at first reading an ordinance that amends ordinance no. 2296 and which incorporates into the City’s regulatory system the language and licensing structure of HB 10-1284. You are scheduled to consider the second reading of that ordinance later in the agenda (Agenda Item 10 - An ordinance amending provisions relating to Medical Marijuana Businesses set forth in Chapter 12, Article VI and Section 26-92 of the Revised Municipal Code.)

III. DISCUSSION ITEMS:

Since October, City Staff, the Planning Commission, and the City Council have been reviewing Ordinance No. 2296 with the goal of revising it to bring the City's regulations into conformance with HB 10-1284. In recent weeks a number of citizens, representatives of community organizations and the local medical community, and the City's department of public safety have recommended or requested that the City Council ban the operation of dispensaries in the City of Steamboat Springs. Written materials prepared by the ban proponents are attached to this communication form.

Authority. HB 10-1284 expressly provides local governments, including the City, with a local option to ban the new medical marijuana businesses, i.e. MMCs, OPCs, and MIPs. The City may implement such a ban either by adoption of an ordinance or by submitting the question to an election.

Other municipalities. Since the adoption of HB 10-1284 over one hundred Colorado counties and municipalities have decided by ordinance or election whether to permit the operation of MMCs, OPCs, and MIPs. The Colorado Municipal League provides the following statistics regarding local government regulation of medical marijuana.

Colorado local governments have held at least thirty-seven elections regarding the regulation, taxing, or prohibition of medical marijuana. Thirty-three of these elections resulted in prohibitions on the HB 10-1284 commercial businesses. Voters in Fraser and Minturn rejected bans. Voters in Pueblo and Fruita approved taxes, but did not specifically address prohibition.

According to CML data, at least sixty-three city councils or town boards have adopted ordinances regarding the regulation or prohibition of medical marijuana. Forty-two of them prohibited commercial marijuana businesses and twenty-one of them permitted commercial marijuana businesses with regulations.

Front Range urban areas (Denver, Boulder, Colorado Springs, Fort Collins, Greeley) have mostly chosen to regulate rather than prohibit. Denver suburban areas (Aurora, Broomfield, Federal Heights, Cherry Hills Village, Greenwood Village, Brighton) have generally chosen to prohibit, although there are some exceptions (Lakewood, Littleton).

Mountain and resort towns have been split with some regulating (e.g. Breckenridge, Durango, Fraser, Carbondale, Buena Vista, Silverton, Telluride, Aspen) and others enacting or voting for prohibitions (e.g. Vail, Eagle, Avon, Dillon, Granby, Hot Sulphur Springs).

Small towns and the more rural areas of the state have almost uniformly chosen to prohibit commercial medical marijuana uses.

The CML election/ordinance information and additional survey information regarding existing local government regulation is attached to this communication form along with

Department of Public Health patient statistics. The Lakewood, Littleton, Telluride, and Aspen regulations were not included in the CML ordinance/election data.

Status of existing dispensaries. If the City were to exercise the local option, the City's existing dispensaries would not be able to obtain state licenses to operate as medical marijuana centers under the protection of HB 10-1284. If they continued in operation they would be subject to administrative enforcement action by the Department of Revenue and to criminal prosecution by the District Attorney's office.

In theory, the dispensaries could attempt to remain in business on the basis of the caregiver model or other rights granted by Amendment 20. The City's existing regulations permit the operation of a dispensary in accordance with Amendment 20.

However, there are at least two significant impediments to a dispensary's operating under Amendment 20. First, HB 10-1284 restricts caregivers to five patients. There is an exception that allows a caregiver to petition the Department of Public Health for permission to serve more than five patients in "exceptional circumstances". It is not clear at this time what criteria the Department of Public Health will apply to decide what constitutes "exceptional circumstances". Second, a dispensary operating as caregiver pursuant to Amendment 20 would have to provide some service to its patients other than merely supplying marijuana.

Dispensaries in other communities have challenged municipal efforts to close them. Most recently, the City of Loveland prevailed in litigation brought by a Loveland dispensary after a November 2010 local option election resulted in a ban on MMCs, OPCs, and MIPs.

Federal regulation. Federal law enforcement agencies have recently begun to clarify their interpretation of the Ogden memo. A number of United States Attorneys in states with medical marijuana laws, including John Walsh, the United States Attorney for the District of Colorado, have written letters indicating that the Justice Department's policy of restraint in the enforcement of federal marijuana laws applies only to seriously ill people using marijuana in accordance with state law and does not apply to people participating in the cultivation and distribution of marijuana.

These letters appear to be a warning that individuals participating in the cultivation and distribution of medical marijuana may be subject to federal prosecution regardless of their compliance with state law. Colorado Attorney General John Suthers reiterated this federal position in a letter to the Governor and the General Assembly. His letter refers to potential liability for state employees. It appears this reference pertains to a pending house bill that at one point would have authorized the state to establish a medical marijuana investment fund. Copies of these letters and the text of the original "Ogden Memo" are attached.

County/Oak Creek. The Oak Creek Town Board has a received a petition requesting the Board to submit to an election the question whether to exercise the local option. The Town Board is scheduled to consider the petition at its meeting on Thursday, May 12.

We understand that the Routt County Board of County Commissioners is following the pending state legislation and could possibly address the local option issue prior to the July 1, 2011 deadline. To date Routt County has not scheduled any agenda item on this issue.

Staff will provide an update at the May 17, 2011 City Council hearing on the Oak Creek and Routt County processes.

Caregiver/patient regulation. If the City were to exercise the local option it is to be expected that at least some dispensary customers will seek alternate sources of supply. Disruption of the dispensary distribution system may result in increased demand for caregiver services and/or increased home cultivation of medical marijuana by licensed patients.

Ordinance No. 2296 limits cultivation and distribution of medical marijuana, whether by caregivers or dispensaries, to commercial and industrial zone districts. Caregivers and dispensaries are not permitted to operate as home occupations. Exercising the local option without amending Ordinance No. 2296 may result in an increase in illegal and uninspected residential caregiver cultivation operations.

The current draft ordinance proposed to permit caregivers serving five patients or fewer to operate and cultivate marijuana in residential units if they comply with the home occupation criteria and pass a fire and building code inspection. Adoption of this provision would allow for regulation and inspection of residential caregiver grow operations. On the other hand, permitting these caregiver uses in residential districts may increase their number and their impact on those residential districts.

IV. CONFLICTS OR PROBLEMS: HB 10-1284 contains conflicting language regarding deadlines for the exercise of the local option. One section says the City must act prior to July 1, 2011. Another imposes no deadline at all. If the Council wishes to enact a ban, it would be prudent to do so prior to July 1, 2011. The Council's current meeting schedule would require an ordinance to be approved at second reading at the June 7, 2011 City Council meeting in order for the ordinance to be published at take effect prior to July 1, 2011.

If the City Council directs City Staff to prepare an ordinance banning medical marijuana, City Council could postpone the second reading of tonight's agenda item No. 10 (the second reading of the ordinance amending Ord. no. 2296) and request that City Staff return with alternative language for the second reading on June 7, 2011. One option would be to adopt the second reading in its current format (Agenda Item No. 10); the

alternative option would be to bring back an ordinance that bans the growing, selling, and dispensing of medical marijuana, other than as authorized pursuant to Amendment 20.

City Staff could further prepare alternative language for the banning of medical marijuana: One version would finalize the ban on the effective date of the banning ordinance; and another version would refer the ordinance banning medical marijuana to the voters on November 1, 2011. If the voters approved the referred ordinance, medical marijuana would be banned. If the voters did not approve the referred ordinance, medical marijuana would not be banned and the City would proceed to adopt the proposed ordinance set out in Agenda Item No. 10.

As of this writing, Wednesday, May 11, 2011, the state legislature is scrambling to adopt a version of HB 11-1043. It is not clear at this point that HB 11-1043, if adopted, will have any effect on the issues discussed in this memo. The deadline to exercise the local option to ban medical marijuana has not currently changed from July 1, 2011.

VI. ALTERNATIVES:

1. Choose to consider the local option to ban medical marijuana. This alternative would require, as set forth above, tabling the second reading of Agenda Item 10 until June 7 with direction to staff to provide alternative language for second reading that would either (a) approve the ordinance set forth in Agenda Item 10; or (b) amend that proposed ordinance to implement a ban on medical marijuana.
2. Adopt the ordinance scheduled for second reading as Agenda Item 10. This alternative would enable the City's existing dispensaries to obtain state and local licenses to operate as medical marijuana centers with optional premises cultivation and with medical marijuana infused products manufacturing.
3. Table Agenda Item 10 with direction for further amendment.

ATTACHMENTS

- Attachment 1 CML ordinance/election data.
- Attachment 2 Department of Public Health patient statistics.
- Attachment 3 E-mails and other citizen comment.
- Attachment 4 Colorado AG and US Attorney letters .
- Attachment 5 Ogden memo.



produced by CML 1/2010

What municipality do you represent?	Received application for MMJ dispensary?	Moratorium on applications for MMJ dispensaries?	Approved MMJ dispensaries? If yes, then how many?	If your municipality has denied applications, then on what grounds?	Is your municipality regulating MMJ dispensaries?	Zoning MMJ dispensaries to a specific district?	Other regulations for MMJ dispensaries?
Alamosa	No	Yes, 120 days to expire March, 2010	No		No		
Arvada	Yes	Yes, 6 months effective January, 2010	Yes, 1		No		
Aurora	Yes	Yes, 6 months	No	Unlawful based on federal law prior to moratorium	No		
Avon	Yes	Yes, 200 days effective January, 2010	No	Violation of federal law	No		
Bayfield	No	No	No		No		
Boulder	Yes	No	Yes, 150		Yes	Zoning, 1000 feet away from schools and day care; no more than 3 within 1000 feet of each other; only where retail, office or greenhouse is use by right	
Breckenridge	Yes	Yes, expired in October, 2009	Yes, 6		Yes	Zoning to business and mixed use land use districts	Hours of operation, Signage, Security, Cultivation, growing, processing, Mitigation of odor
Brighton	No	Yes, until June, 2010	No		No		
Broomfield	Yes	No	No	Municipal code requires that any business must comply with all laws. MMJ dispensary does not comply with federal law.	No		
Brush!	No	Yes, 6 months to expire in July, 2010	No		No		



produced by CML 1/2010

What municipality do you represent?	Received application for MMJ dispensary?	Moratorium on applications for MMJ dispensaries?	Approved MMJ dispensaries? If yes, then how many?	If your municipality has denied applications, then on what grounds?	Is your municipality regulating MMJ dispensaries?	Zoning MMJ dispensaries to a specific district?	Other regulations for MMJ dispensaries?
Castle Pines North	Yes	Yes, 7 months	No	Application submitted was not complete and prior to completion of application, city adopted moratorium on first reading and applied the pending ordinance doctrine.	No		
Castle Rock	Yes	Yes, 180 days	Yes, 1		No		
Cedaredge	No	No	No		Yes	Up for consideration during rewrite of zoning/subdivision ordinances presently underway. Most likely there will at least be a zoning determination	
Collbran	No	No	No		No	No	No
Commerce City	No	No	No		Yes	Zoning, must obtain a CUP and may only be located in industrial districts and at least 1000 feet from various uses	Signage, Security, Consumption
Craig		Yes, expired December, 2009			Yes	Zoning, C-2 Zone District Community Commercial	Hours of operation, Signage, Security, Cultivation, growing, processing, Mitigation of odor
Denver	Yes	No	Yes, 450		Yes		Hours of operation, Security
Dillon	No	Yes, 180 days and extension under consideration	No				



produced by CML 1/2010

What municipality do you represent?	Received application for MMJ dispensary?	Moratorium on applications for MMJ dispensaries?	Approved MMJ dispensaries? If yes, then how many?	If your municipality has denied applications, then on what grounds?	Is your municipality regulating MMJ dispensaries?	Zoning MMJ dispensaries to a specific district?	Other regulations for MMJ dispensaries?
Durango	Yes	Yes, 60 days, It was passed on September 1, 2009. A public hearing is scheduled for Oct 6, 2009 to regulate the time, manner and place. So at this time the only restriction was zoning which applies to all business licences.	Yes, 4		No		
Erie	No	Yes, 180 days	No		No		
Estes Park	No	Yes, until July, 2010	No		No		
Fort Lupton	No	Yes, until June, 2010	No		No		
Fort Morgan	No	Yes, until April 2010	No		No		
Fountain	No	Yes, until May 2010			No		
Garden City	Yes	No	Yes, 3		Yes	Zoning, commercial business and distance from certain other businesses and from each other	Hours of operation, Signage, Security, Cultivation, growing, processing, Mitigation of odor
Glenwood Springs	Yes	No	Yes, 4		No		
Grand Junction	Yes	Yes, 1 year	Yes		No		



produced by CML 1/2010

What municipality do you represent?	Received application for MMJ dispensary?	Moratorium on applications for MMJ dispensaries?	Approved MMJ dispensaries? If yes, then how many?	If your municipality has denied applications, then on what grounds?	Is your municipality regulating MMJ dispensaries?	Zoning MMJ dispensaries to a specific district?	Other regulations for MMJ dispensaries?
Greeley	Yes	Yes, 90 days expired October, 2009	No	The sale of marijuana is prohibited under federal and state law, zoning code prohibited illegal uses. As of October, 2009 Greeley has an ordinance specifically prohibiting medical marijuana dispensaries in Greeley (Ord. 2009-50, 18.46.135).	Yes		
Gypsum	Yes	No	No	Criteria requires activity to comply with federal law	No		
Hayden	No	No	No	Dispensaries are not permitted in any zone district	No		
Hotchkiss	Ye	Yes, 6 months effective December, 2009	No		No		
Julesburg	No	Yes, 6 months			No		
Lakewood	Yes	No	Yes, 2		Yes, proposed	Yes, proposed	Yes, proposed



produced by CML 1/2010

What municipality do you represent?	Received application for MMJ dispensary?	Moratorium on applications for MMJ dispensaries?	Approved MMJ dispensaries? If yes, then how many?	If your municipality has denied applications, then on what grounds?	Is your municipality regulating MMJ dispensaries?	Zoning MMJ dispensaries to a specific district?	Other regulations for MMJ dispensaries?
Littleton	Yes	Yes, 90 days, to expire February, 2010	Yes, 9		Yes	Zoning, space limitations around schools, parks, correctional facilities and 1000 feet from each other. Based on needs and desires of neighborhood and only those operational as of December 22 are exempt from the limits and spacing. All dispensaries must apply and meet the other guidelines.	Hours of operation, Signage, Security, Cultivation, growing, processing, Mitigation of odor
Lone Tree	Yes	Yes, 180 days	No	Violation of federal law violates business licensing and constitutes public nuisance	No		
Longmont	Yes	Yes, expires June, 2010	Yes, 9				
Loveland	Yes	Yes, 8 months effective November, 2009	Yes, 22		No		
Lyons	Yes	Yes	Yes, 1		Yes, proposed	Yes, proposed	Yes, proposed
Mancos	No	Yes, 180 days			No		
Milliken	No	No	No		Yes	Zoning, new C-5 zone district	
Morrison	No	Yes, 180 days expired October 2009	No		No		
Mountain View	No	No	No		Yes	Zoning, commercial	Hours of operation, Signage, Security, Cultivation, growing, processing,
New Castle	No	Yes, 6 months	No		No		



produced by CML 1/2010

What municipality do you represent?	Received application for MMJ dispensary?	Moratorium on applications for MMJ dispensaries?	Approved MMJ dispensaries? If yes, then how many?	If your municipality has denied applications, then on what grounds?	Is your municipality regulating MMJ dispensaries?	Zoning MMJ dispensaries to a specific district?	Other regulations for MMJ dispensaries?
Pagosa Springs	Yes	Yes	No	An application is pending. Our current code requires compliance with all state and federal laws and regulation.	No		
Paonia	Yes	Yes, 120 days effective December, 2009	Yes, 2		No, considering limiting numbers, proximity to schools, day cares and parks		
Parker	Yes	Yes, 180 days	No		No		
Rifle	Yes	No	3 operating prior to new regs; applications being processed		Yes	No	Yes; business/liquor license format
Silt	No	Yes, 180 days effective November, 2009	No		No		
Sterling		180 days					
Telluride	Yes	Yes, 6 months effective October, 2009 to expire April, 2010	Yes		No		
Vail	No	Yes, 180 days effective January, 2010	No	Not currently a permitted or conditional use in any zone district.	Yes		
Westcliffe	No	No	No		No		



produced by CML 1/2010

What municipality do you represent?	Received application for MMJ dispensary?	Moratorium on applications for MMJ dispensaries?	Approved MMJ dispensaries? If yes, then how many?	If your municipality has denied applications, then on what grounds?	Is your municipality regulating MMJ dispensaries?	Zoning MMJ dispensaries to a specific district?	Other regulations for MMJ dispensaries?
Westminster	No	Yes, effective September, 2009 expired December, 2009	Yes, 2		Yes	It is unlawful for any person or entity to use, occupy or authorize the use or occupancy of any land or building for any use that is unlawful under any state or federal law	
Wheat Ridge	Yes	Yes, 6 months			No		
Windsor	Yes	Yes, expires March, 2010	Yes, 3		Yes	Zoning to General Commercial	
Winter Park	Yes	Yes	No	Zoning violation.	Yes		Medical marijuana dispensaries are prohibited unless and until there is state-wide legislation. The ordinance prohibiting MMDs, however, does not limit the rights granted in the Constitution to specific categories of individuals (i.e. physicians, patients and caregivers).

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
Akron	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Alamosa	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Aurora	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Avon	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Bayfield	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Berthoud	Regulation of MMJ Centers, Cultivation, and Manufacturers			ADOPTED+				
Boulder	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Bow Mar	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Breckenridge	Regulation of MMJ Centers, Cultivation, and Manufacturers Regulation of Homegrows		ADOPTED+	ADOPTED+				
Brighton	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Broomfield	Prohibition of MMJ Centers, Cultivation, and Manufacturers Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		ADOPTED^ PASS					
Buena Vista	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Calhan	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Canyon City	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Carbondale	Regulation of MMJ Centers, Cultivation, and Manufacturers			ADOPTED+				
Castle Pines North	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Castle Rock	Prohibition of MMJ Centers, Cultivation, and Manufacturers Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		ADOPTED^	PASS				
Cherry Hills Village	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Cokedale	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Colorado Springs	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Creede	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
De Beque	Shall Permit MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$50,000 by taxing \$5 per MMJ transaction?		FAIL PASS					
Denver	Regulation of MMJ Centers, Cultivation, and Manufacturers			ADOPTED+				
Delta	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Dillon	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Dinosaur	Shall Permit MMJ Centers, Cultivation, and Manufacturers?		FAIL					

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
Durango	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Eagle	Regulation of MMJ Centers, Cultivation, and Manufacturers Prohibition of MMJ Centers, Cultivation, and Manufacturers	ADOPTED+		ADOPTED^				
Erie	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Elizabeth	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Fairplay	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Federal Heights	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Florence	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Fountain	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Foxfield	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Fraser	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$100,000 by imposing 5% gross tax on sale MMJ paraphernalia, products?		FAIL PASS					
Fruita	Shall taxes be increased by \$100,000 adopting a 5% medical marijuana and paraphernalia tax on the price paid to be used for enforcement?	PASS						
Ft. Collins	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Ft. Morgan	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Granby	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$100,000 by imposing 5% gross tax on sale MMJ paraphernalia, products?		PASS PASS					
Grand Junction	Prohibition of MMJ Centers, Cultivation, and Manufacturers Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		ADOPTED^	PASS				
Grand Lake	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Greeley	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Greenwood Village	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Hayden	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Hillrose	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Hot Sulphur Springs	Shall Allow MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$100,000 by imposing 5% gross tax on sale MMJ paraphernalia, products?		FAIL FAIL					

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
Hotchkiss	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Illif	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Jamestown	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Kersey	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Kiowa	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
La Junta	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Lafayette	Regulation of MMJ Centers, Cultivation, and Manufacturers			ADOPTED+				
Lake City	Shall Allow MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Larkspur	Shall Prohibit MMJ Centers? Shall Prohibit Cultivation Operations? Shall Prohibit MMJ Infused Product Manufacturers?			PASS PASS PASS				
Las Animas	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Log Lane Village	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Lone Tree	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Louisville	Extension of Moratorium to 4/30/2011			ADOPTED				
Loveland	Shall Allow MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Manitou	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Milliken	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Minturn	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Moffat	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Montrose	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Mountain View	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
New Castle	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Olathe	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Otis	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Ouray	Shall Allow MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Palisade	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Paonia	Shall Allow MMJ Centers? Shall Allow Cultivation and Manufacturers? If MMJ Centers Allowed, shall there be a 2% tax?		FAIL FAIL PASS					

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
Parker	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Peetz	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Poncha Springs	Shall allow MMJ Centers? Shall allow MMJ Manufacturers? Shall allow MMJ Cultivation Oporations?			FAIL FAIL FAIL				
Pueblo	Shall taxes be increased \$500,000 by imposing 4.3% gross tax on sale MMJ paraphernalia, products?		PASS					
Ramah	Shall Permit MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Rocky Ford	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Silver Cliff	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Silverton	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Simla	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Sugar City	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$100,000 by imposing 5% gross tax on sale MMJ paraphernalia, products?		PASS PASS					
Superior	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Trinidad	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Vail	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Wellington	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Westcliffe	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Westminster	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Windsor	Shall adopt ordinance to Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Woodland Park	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
TOTALS	Local Opt-Out Ballot Questions Results: Prohibit:	0	25	8				
	Allow:	<u>1</u>	<u>2</u>	<u>0</u>				
	Totals	1	27	8	0	0	0	0
	Council Action to Prohibit:	0	33	9	0	0	0	0
	Council Action to Regulate:	<u>1</u>	<u>15</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	Totals	1	48	14	0	0	0	0

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
	CUMULATIVE <u>ELECTION</u> TOTALS:	CUMULATIVE <u>COUNCIL ACTION</u> TOTALS:						
	Prohibit 33	Prohibit 42						
	Allow 3	Allow 21						
	TOTAL 36 (91.7% prohibition rate)	TOTAL 63 (66.7% prohibition rate)						

^ Prohibition adopted by council action

+ Regulations adopted by council action

Medical Marijuana Registry Program Update

(as of March 31, 2011)

In the November 2000 general election, Coloradoans passed Amendment 20, and the Colorado Department of Public Health and Environment (CDPHE) was tasked with implementing and administering the Medical Marijuana Registry program. In March of 2001, the State of Colorado Board of Health approved the Rules and Regulations pertaining to the administration of the program, and on June 1st, 2001, the Registry began accepting and processing applications for Registry Identification cards.

Statistics of the registry include:

- 137,556 new patient applications have been received to date since the registry began operating in June 2001. The total number of patients who currently possess valid Registry ID cards is 123,890.
- Sixty-nine percent of approved applicants are male.
- The average age of all patients is 40. Currently forty patients are minors (under the age of 18).
- Fifty-six percent of patients reside in the Denver-metro area (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas & Jefferson counties), with the remainder of patients residing in counties throughout Colorado.
- Patients on the registry represent all the debilitating conditions covered under Amendment 20. Severe pain accounts for 94 percent of all reported conditions; muscle spasms account for the second-most reported condition at 21 percent. Note that percentages do not add up to 100 percent because some patients have more than one condition.
- Sixty-three percent of patients have designated a primary care-giver (someone who has significant responsibility for managing the care of a patient with a debilitating medical condition).
- More than 1,100 different physicians have signed for patients in Colorado.

Please see the tables below for a complete listing of all statistical information.

As of October 27, 2008 all applications, renewal and changes to the Registry must be submitted via mail and include a legible photo copy of the patient's Colorado Identification. Faxes and emails are not accepted.

No general funds have been designated for this program. The Colorado Constitution authorizes CDPHE to collect fees to cover the costs of administering the program. Currently the fee is \$90, and is evaluated annually by CDPHE. The fee was lowered from \$110 on June 1, 2007.

Table I: County Information

County	Number of Patients	Percent of Patients
Adams	8,782	7%
Alamosa	311	<1%
Arapahoe	11,057	9%
Archuleta	403	<1%
Baca	52	<1%
Bent	46	<1%
Boulder	11,494	9%
Broomfield	1,221	1%
Chaffee	611	<1%
Cheyenne	25	<1%
Clear Creek	496	<1%
Conejos	116	<1%
Costilla	129	<1%
Crowley	64	<1%
Custer	94	<1%
Delta	825	1%
Denver	18,528	15%
Dolores	82	<1%
Douglas	4,129	3%
Eagle	1,518	1%
El Paso	13,474	11%
Elbert	422	<1%

Fremont	1,115	1%
Garfield	1,885	2%
Gilpin	434	<1%
Grand	444	<1%
Gunnison	596	<1%
Hinsdale	22	<1%
Huerfano	193	<1%
Jackson	19	<1%
Jefferson	14,239	12%
Kiowa	16	<1%
Kit Carson	50	<1%
La Plata	1,774	1%
Lake	312	<1%
Larimer	8,511	7%
Las Animas	263	<1%
Lincoln	35	<1%
Logan	231	<1%
Mesa	3,520	3%
Mineral	15	<1%
Moffat	218	<1%
Montezuma	658	1%
Montrose	841	1%
Morgan	223	<1%
Otero	191	<1%
Ouray	151	<1%
Park	919	1%
Phillips	30	<1%
Pitkin	901	1%
Prowers	89	<1%
Pueblo	2,528	2%
Rio Blanco	68	<1%
Rio Grande	179	<1%

Routt	1,143	1%
Saguache	229	<1%
San Juan	36	<1%
San Miguel	612	1%
Sedgwick	22	<1%
Summit	1,520	1%
Teller	1,014	1%
Washington	49	<1%
Weld	4,644	4%
Yuma	72	<1%

* Indicates fewer than three patients in each category

Table II: Conditions

Reported Condition	Number of Patients Reporting Condition	Percent of Patients Reporting Condition**
Cachexia	1,583	1%
Cancer	2,598	2%
Glaucoma	1,109	1%
HIV/AIDS	643	1%
Muscle Spasms	26,151	21%
Seizures	1,711	1%
Severe Pain	116,858	94%
Severe Nausea	15,177	12%

**Does not add to 100% as some patients report using medical marijuana for more than one debilitating medical condition.

Table III: User Characteristics

Sex	Percent on Registry	Average Age**
------------	----------------------------	----------------------

Male	69%	39
Female	31%	42

** The overall average age of all patients is 40 years old.

- - Medical Marijuana Registry
 - 4300 Cherry Creek Drive South (HSVVD-MMP-A1), Denver, CO 80246-1530
 - medical.marijuana@state.co.us
 -
 - [Privacy & Security](#)
 -

© 201120112011 State of Colorado, Denver, CO

Anja Tribble

From: Anja Tribble
Sent: Wednesday, April 06, 2011 11:19 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] Last evening's council meeting.

-----Original Message-----

From: Anja Tribble
 Sent: Wednesday, April 06, 2011 11:19 AM
 To: 'kevin@rockymountainremedies.com'
 Subject: RE: [City Council] Last evening's council meeting.

Dear Kevin

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
 Staff Assistant
 City Clerk's Office
 Steamboat Springs, Colorado

(970) 871-8225
 atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of kevin@rockymountainremedies.com
 Sent: Wednesday, April 06, 2011 10:29 AM
 To: Anja Tribble
 Subject: [City Council] Last evening's council meeting.

Kevin Fisher sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Firstly, allow me to thank the council members for putting in the hours last night- I think we're all pretty well prepped for the Bolder Boulder now. When I awoke the morning, anger at my alarm clock was my first emotion; My second was a feeling of betrayal.

Last night's call for, and then consideration of, an outright ban of medical marijuana centers in Steamboat caught me and I think yourselves, a bit off guard. To paraphrase councilwoman Bentley: "we told you the ball was in your court and you dropped it," is a statement that is both unfair and untrue. Last year, the City Council passed an ordinance governing the operation of medical marijuana centers (MMC's) in Steamboat. To my knowledge, not one of the three currently operating MMC's in town has violated ANY of the guidelines adopted in said ordinance. There have been no police investigations or arrests on these grounds. In my mind, that shows we have indeed held up our end of the bargain.

It is my opinion, however, that ire drawn from the method in which Chris Ward operates Aloha's MMC in Milner, has unfortunately tainted the clean records of the Steamboat MMC's. It was therefore very surprising to me that council voted 6-1 against adopting the planning commission's proposed advertising restrictions. There was some concern expressed over infringing upon our first amendment right to free speech. However, no such concern was expressed regarding Colorado patients' constitutional right provided by amendment 20 to the safe access of medication, ie cannabis. And herein lies my first position as to why a ban of MMC's should not even hit the Council's agenda.

There are approximately one thousand medical marijuana cardholders in the Steamboat area.

Previously e-mailed

If a ban were to be enacted, most of these patients would not wake up the next morning and say to themselves "oh well, I'm done with cannabis." Instead, provided they choose not to patronize Aloha's, which would be unaffected by a Steamboat ban, they would be forced back to the black market where the meds are unregulated, untested and untaxed. For too long, these patients in need have been forced into alleys to find relief. This is a paradigm we need not revisit. But, also notice I wrote "most patients." This is because there would be those who would choose to forego medical marijuana. This is a tragedy as some of these people are those who need it the most.

They are the forty, fifty and sixty-somethings who suffer from cancer, MS, rheumatoid arthritis and other debilitating conditions who have not the black market connections to procure their meds. They are the people, like my mom (who died after battling cancer for fifteen years and whose grandfather was chief of police) who will listen to law enforcement's take on "that bad marijuana" before their physician's. They are those patients who are finally finding relief from their symptoms because they now can procure medication in a safe and regulated environment.

Now, in the interest of complete disclosure, we need to address my second position as to why the ban should not be included on future agendas: We are businesses. We are business paying taxes. We are businesses adding a minimum fifty new jobs to the area in a down economy. We are businesses duly licensed by the local authority. And here, I'd like to speak to Rocky Mountain Remedy's very serious concern about the Council's considered "reneging."

This very council, not another council, but THIS member body, about a year ago, passed legislation regulating and allowing for commercial medical marijuana in Steamboat. Since this was ratified, as I previously wrote, all three centers have been operating within statutory compliance. As such, with a law passed allowing me to operate legally, I felt comfortable investing in the growth of RMR. To this date, we have spent near one-million dollars on the growth and expansion of our business. These funds were not borrowed, gifted, inherited, etc. They were drafted from savings accounts and taken from our profit stream. They represent the total sum of my and my partner's net worth. In fact, at this point, both of use remain heavily in the red.

These very risky steps were taken on the City Council's go-ahead. I know of NO other area of commerce where some Council members would so flippantly and without extended deliberation call for the outright shuttering of such a capitalized endeavor. Some of you, I know, are self-employed. Take a few steps in my shoes and tell me how they fit?

I understand the concern the Council and Steamboat's citizens have regarding the access of minor to cannabis in our town. It is not our position to promote the under-age, unlicensed consumption of marijuana by minors. We do not market to this group and we have no desire to capture this demographic.

It is unrealistic, however, to assume that cannabis meant for a legitimate patient will never end up in the wrong hands. But, I read the paper, I hear the gossip, I know the frequency with which other prescription meds are abused by Steamboat's youth and there is no call to close Lyon's. There is not a police captain citing anecdotal evidence about "a girl last week with a Vicodin." I do know, though, that next to the oxycotin is a soda fountain. I do know the the Healthy Kids Report shows no statistically significant change in the accessibility of marijuana for Steamboat's kids. The only difference when a youth is caught with pot today than three years ago is the fact that one may be able to link the legal sale of the meds up the line to a specific entity. I say start stamping every beer can with the Central Park logo and see in whose hands they end up.

I believe the MMC's in Steamboat could, with the right guidance, be valuable partners in the education of our youth on the dangers associated with the abuse of all drugs. We have a voice to which many will listen. Prohibition is not the answer. Education is. There is a reason why the rate of cannabis usage in the Netherlands is lower than that in the United States. And let me tell you that it has nothing to do with Capt. Rae's vision of vigorously driving out any and all drugs from our city's borders.

In conclusion, allow me to thank you for your time and consideration. Provided below are some links to HB 10-1284 and the associated rulemaking draft. I think you may find it helpful to see just how stringent the guidelines are at the state level for the operation of an MMC. Let me again remind you that there a very stiff

Previously e-mailed

repercussions for those operating outside the rules. Let's not accept the rollback of all our hard work as the easy answer to the problems that are sure crop up around any emerging industry. Instead, let's work together to achieve those goals which are mutually beneficial to us all.

Please feel free to contact me anytime about anything. I am also more than happy to provide tours of our facilities to any interested council member.

Regards- Kevin Fisher 970-846-1081

<http://www.colorado.gov/cs/Satellite/Rev-Enforcement/RE/1251575120132>

<http://www.colorado.gov/cs/Satellite/Rev-Enforcement/RE/1251575120107>

Anja Tribble

From: Anja Tribble
Sent: Thursday, April 07, 2011 1:54 PM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; Joel Rae; JD Hays
Cc: Julie Franklin
Subject: FW: [City Council] Medical Marijuana Dispensaries

-----Original Message-----

From: Anja Tribble
Sent: Thursday, April 07, 2011 1:51 PM
To: 'bannings@ticus.com'
Subject: RE: [City Council] Medical Marijuana Dispensaries

Dear Suzanne

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of bannings@ticus.com
Sent: Thursday, April 07, 2011 1:38 PM
To: Anja Tribble
Subject: [City Council] Medical Marijuana Dispensaries

Suzanne Banning sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

My name is Suzanne Banning. I have lived in Routt County since 1991. I am a civil engineer by degree and work as a lead estimator at TIC. I have been in this community of almost 20 years. I pay my bills, my taxes, and strive to be a responsible citizen. I also have migraine headaches. My first migraine showed up 12 years ago after the birth of my child. I have prescription drugs that I can take for the migraines, but I use them only as a last resort due to the strength, the medical warnings, and the expense of the drug. Until recently, I had no other recourse if over the counter methods did not work. Now I am glad to say that I have my medical marijuana card and that marijuana has significantly eased the pain of the migraine headaches without the "drug hangover" effect of the prescription drug. There are viable reasons for the use of medical marijuana. The town and the state of Colorado have set up requirements for dispensaries to follow. Please allow the dispensaries to function within those guidelines without the bias of people that do not require or appreciate the medical uses. Thank you.

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Thursday, April 07, 2011 3:23 PM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; Joel Rae; JD Hays
Cc: Julie Franklin
Subject: FW: [City Council] medical marijuana

-----Original Message-----

From: Anja Tribble
Sent: Thursday, April 07, 2011 3:19 PM
To: 'raging_deftones@yahoo.com'
Subject: RE: [City Council] medical marijuana

Dear John

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of raging_deftones@yahoo.com
Sent: Thursday, April 07, 2011 2:51 PM
To: Anja Tribble
Subject: [City Council] medical marijuana

john madux sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

city council,

it is very important to me that i have safe access to regulated cannabis at a licensed medical marijuana dispensary. without access to this medicine many locals will suffer. Not only will they suffer, but they will be forced to once again find their medicine on the streets from dealers. Town would also suffer. Tax revenues are down, and medical cannabis is a huge contributor to our economy. Licensed dispensaries create hundreds of jobs, and generate lots of tax dollars, which steamboat can use to fill in pot holes and pay teachers, among many other services that benefit our great city.

Thank you for listening!

John M.

Previously e-mailed

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Friday, April 08, 2011 11:40 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin; Debra Hinsvark
Subject: FW: [City Council] Dispensaries staying open

-----Original Message-----

From: Anja Tribble
Sent: Friday, April 08, 2011 11:39 AM
To: 'mpatters80488@yahoo.com'
Subject: RE: [City Council] Dispensaries staying open

Dear MMJ Patient

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of mpatters80488@yahoo.com
Sent: Friday, April 08, 2011 11:24 AM
To: Anja Tribble
Subject: [City Council] Dispensaries staying open

MMJ Patient sent a message using the contact form at http://steamboatsprings.net/contact/city_council.

To all of the City Council Members: I am a patient with RMR and have been for a year now. I can tell you that with the opening of the 5 dispensaries in Routt County/Steamboat Springs the black market has basically gone away. Now, I can go get my medicine in a safe and regulated store. I don't have to go to a dude's house in downtown and score a bag of weed that won't weigh out correctly and be scared that the police will track him or myself down and arrest us. I am concerned that one police officer will persuade you all in banning these shops. Why don't you tell Mr. Rae to concentrate on the real problem in this town of cocaine and meth. Would it make the police officer's jobs easier to keep profiling MMJ patients and assume that we are all driving "high?" You all know what "Assuming" makes you. I believe this town is fine the way it is now. I feel like if the ban on MMJ stores is enacted then your gonna have thousands of growing operations in your own neighborhoods. What would you rather have??? A safe/secure place to buy meds or next door to your houses? You all make the decisions for this town. Please make the right decision on this one. How much tax rev is Steamboat seeing from MMJ? Thanks for listening and I pray you make the right decision.

Anja Tribble

From: Anja Tribble
Sent: Monday, April 11, 2011 8:34 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] Medical Marajuana Centers

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:33 AM
To: 'jessydasty@yahoo.com'
Subject: RE: [City Council] Medical Marajuana Centers

Dear Jessica

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of jessydasty@yahoo.com
Sent: Sunday, April 10, 2011 2:05 PM
To: Anja Tribble
Subject: [City Council] Medical Marajuana Centers

Jessica Dastyck sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Hello, I want you to know that, as a citizen of Routt County: I would like to continue to have safe access to regulated cannabis at a licensed medical marijuana center! Please make note of my request. Thank you.

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Monday, April 11, 2011 8:34 AM
To: Joel Rae; JD Hays
Subject: FW: [City Council] Have safe access to regulated cannabis at a licensed medical marijuana center.

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:30 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote
Cc: Julie Franklin
Subject: FW: [City Council] Have safe access to regulated cannabis at a licensed medical marijuana center.

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:27 AM
To: 'signwithcanady@live.com'
Subject: RE: [City Council] Have safe access to regulated cannabis at a licensed medical marijuana center.

Dear Ona

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of signwithcanady@live.com
Sent: Friday, April 08, 2011 2:10 PM
To: Anja Tribble
Subject: [City Council] Have safe access to regulated cannabis at a licensed medical marijuana center.

Ona Canady sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Being able to have safe access to cannabis is very important to me. I feel less illegal drug dealers and growers are out, making it harder for a high school student to obtain the drug. Also as a responsible card holder I'm able to use to eliminate my pain with out tons of chemicals and with out the access I would free having to find an illegal source. I'm also curious as to how much taxes we have received from the local marijuana centers and how that is helping and how it may continue to help our beautiful town. Thanks for the option to email my opinion, I hope its taken in to consideration when banning marijuana centers.

Ona

Anja Tribble

From: Anja Tribble
Sent: Monday, April 11, 2011 8:35 AM
To: JD Hays; Joel Rae
Subject: FW: [City Council] ban on medical marijuana

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:32 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote
Cc: Julie Franklin
Subject: FW: [City Council] ban on medical marijuana

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:32 AM
To: 'rbdickson@springsips.com'
Subject: RE: [City Council] ban on medical marijuana

Dear Robert
Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of rbdickson@springsips.com
Sent: Friday, April 08, 2011 2:44 PM
To: Anja Tribble
Subject: [City Council] ban on medical marijuana

robert dickson sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

to the members of the council please just consider if you had a family member or loved one who is suffering with cancer or arthritis or trouble eating or sleeping and this is one of the things that works not pharmaceuticals. you might change your thoughts on an out right ban. i wont even mention tabbacco and alcahol youre smart people you can figure it out.

Anja Tribble

From: Anja Tribble
Sent: Monday, April 11, 2011 8:37 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] medical marijuana

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 11, 2011 8:37 AM
To: 'keri.peak@gmail.com'
Subject: RE: [City Council] medical marijuana

Dear Keri

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of keri.peak@gmail.com
Sent: Sunday, April 10, 2011 2:09 PM
To: Anja Tribble
Subject: [City Council] medical marijuana

Keri Romine sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

On the topic of medical marijuana, I believe it is an asset in many ways but I dont agree with some of the blatent advertising. Keep it unadvertised except for the internet. I dont believe newspaper advertisements are necessary and the facilities should not stand out. Those who are patients know where to go, they dont need advertising.

I think keeping it governed, using the taxes to help our economy, and monitoring it is a great step forward and will stop a lot of outside growing and selling illegally.

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 12, 2011 9:37 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: Medical marijuana sellers in Steamboat Springs

From: Anja Tribble
Sent: Tuesday, April 12, 2011 9:35 AM
To: 'William D Cousins'
Subject: RE: Medical marijuana sellers in Steamboat Springs

Dear William

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
 Staff Assistant
 City Clerk's Office
 Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

From: William D Cousins [mailto:billcou@msn.com]
Sent: Tuesday, April 12, 2011 9:32 AM
To: Anja Tribble
Subject: Medical marijuana sellers in Steamboat Springs

The City Council members need to face reality. They need to listen and take heed of Police Dept Capt, Joel Rae; Dr. Brian Harrington of Yampa Valley Medical Associates; Kate Marshall of Grand Futures Prevention Coalition; and school teacher, Ann Coon. These people work in the real world and see first hand on a daily basis how this "medical industry" is harming the local community. It is opening the back door to drug abuse as evidenced by the DUID figures produced by the Police.

For Jon Quinn to say, "You can't put the genie back in the bottle" is a cop out. Yes you can, Mr. Quinn. It's not too late to let the mystical marijuana genie escape into the thin air. Accept the statement presented by Dr. Harrington that ".....the industry is based on false pretenses and debatable medical value....."

Get real, City Council!

William Cousins
 Concerned Resident

Previously e-mailed

4-34

5/3/2011

Anja Tribble

From: Anja Tribble
Sent: Wednesday, April 13, 2011 8:35 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] ban medical marijuana dispensaries please

-----Original Message-----

From: Anja Tribble
Sent: Wednesday, April 13, 2011 8:34 AM
To: 'larson47@comcast.net'
Subject: RE: [City Council] ban medical marijuana dispensaries please

Dear Sherry

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of larson47@comcast.net
Sent: Tuesday, April 12, 2011 2:06 PM
To: Anja Tribble
Subject: [City Council] ban medical marijuana dispensaries please

Sherry Larson sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

While I'm sure there is a benefit in extreme medical cases, I don't think the current advertizing is targeted toward the patients who could truly benefit from this type of therapy. When a doctor is available for consultation at the Holiday Inn for \$200, and young adults can get perscriptions for 'knee pain', I think it's been proven that the local marijuana is not being treated as the medicine that it was intended to be used as. Too easily it is getting into the hands of our teens and young adults. As a parent this disturbs me. How can the economic value of the dispensaries outweigh the health and welfare of our community? There are medical reasons that marijuana is designated as an illigal substance. I wonder in 5 years will the quality of our high school graduates be where they're at now? I don't think we want to find that out the hard way...thank you for taking my opinion into concideration. - Sherry Larson

Anja Tribble

From: Anja Tribble
Sent: Thursday, April 14, 2011 1:38 PM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] rmr client

-----Original Message-----

From: Anja Tribble
Sent: Thursday, April 14, 2011 1:37 PM
To: 'snowman606@comcast.net'
Subject: RE: [City Council] rmr client

Dear EMS

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of snowman606@comcast.net
Sent: Thursday, April 14, 2011 1:22 PM
To: Anja Tribble
Subject: [City Council] rmr client

ems sent a message using the contact form at
http://steamboatsprings.net/contact/City_Council.

To Whom It May Concern;

I am writing to you in regards of RMR. Please DO NOT forget about REAL people who have REAL medical needs, that appreciate having relief without DEADLY and impairing side effects. I went through chemo 6 years ago without cannabis and appreciate the huge difference this time around with cannabis. There are a variety of edibles and analgesics that are of great efficacy without side effects. I appreciate the great sensitivity and humanity that RMR provides. I appreciate being able to have relief legally and to be treated with respect in a very respectable establishment for my needs. My hope is that cannabis can be studied and used for it's benefits. I have had too much experience with the medical field and being a patient. My greatest improvements have been with alternative medicine. RMR has been instrumental for me to regain my health and LIFE. PLEASE DO NOT forget the people who suffer and get relief from cannabis. Please DO NOT forget the wonderful crew at RMR who are so personable and helpful to those in need.

Thank You,

EMS

Anja Tribble

From: Anja Tribble
Sent: Tuesday, April 19, 2011 9:22 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] Vote to ban Marajuana dispensaries

-----Original Message-----

From: Anja Tribble
Sent: Tuesday, April 19, 2011 9:21 AM
To: 'Mg-McNamara@comcast.net'
Subject: RE: [City Council] Vote to ban Marajuana dispensaries

Dear Michelle

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of Mg-McNamara@comcast.net
Sent: Tuesday, April 19, 2011 7:14 AM
To: Anja Tribble
Subject: [City Council] Vote to ban Marajuana dispensaries

Michelle mcNamara sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I would like to ask you to vote for a ban on the marajuana dispensaries in Steamboat. Steamboat is a family community, known to the world as Ski Town USA. We are a place of Olympic athletes, families and a lot of us depend on tourism. The ski area prides itself on marketing our town to families. Let's do our part and keep Steamboat a family friendly community.

Anja Tribble

From: Anja Tribble
Sent: Monday, April 25, 2011 8:19 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] licensed medical marijuana center

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 25, 2011 8:18 AM
To: 'KRICHARDSON40179@comcast.net'
Subject: RE: [City Council] licensed medical marijuana center

Dear K

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of KRICHARDSON40179@comcast.net
Sent: Saturday, April 23, 2011 3:51 PM
To: Anja Tribble
Subject: [City Council] licensed medical marijuana center

K Richardson sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

In regard to the editorial in the paper, are there any less irresponsible drunks on our streets? Just a thought, you are making those of us who have benefited from the passage of law seem derelict. Why is this still allowed to be an issue? The kids who run the RMR are responsible entrepreneurs who dove into all the red tape so that we, the people who have MS are able to sleep at night. Please leave the marijuana centers alone.

respectively,
K Richardson

Anja Tribble

From: Anja Tribble
Sent: Monday, April 25, 2011 8:23 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] Medical Marijuana Dispensaries

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 25, 2011 8:22 AM
To: 'tsullivan@steamboat.com'
Subject: RE: [City Council] Medical Marijuana Dispensaries

Dear Trish

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of tsullivan@steamboat.com
Sent: Sunday, April 24, 2011 7:37 AM
To: Anja Tribble
Subject: [City Council] Medical Marijuana Dispensaries

Trish Sullivan sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I'm writing to urge City Council to send the question whether to ban medical marijuana dispensaries to our voters. I'm a 22 year resident of Steamboat Springs and employed at Steamboat Ski & Resort Corp. At our resort, where we do post-accident and "reasonable suspicion" drug and alcohol screens, we've seen an increase in positive drug screens resulting from THC use or a refusal to take a drug screen due to admitted use of THC. Often these responses come from 20-30'ish males who voluntarily claim to have medical marijuana cards. Our business treats marijuana—medical or otherwise—as illegal under federal law and we don't accommodate medical marijuana users. As a large employer with significant safety concerns for both our staff and our guests, these trends are alarming.

As an employer, the challenge we face is the lack of enforcement of current medical marijuana regulations related to the ease of getting a medical marijuana card. It's common to hear of relatively healthy people obtaining medical marijuana by lying or overstating their pain and suffering.

The local radio ad with the "Cheech and Chong" style message or print ads that offer "free joint day" or talk about "Twirling Hippy Confections" and "Kandy Kush" lacks credibility for legitimate medicinal products and only reinforces the message for many that this is an avenue for recreational use. This lack of enforcement that is allowing medical marijuana laws to be abused by recreational users is a detriment not

Previously e-mailed

an asset to our community. Not only that, but the Steamboat community has a long tradition of strong family values evident and important to both locals and visitors. This issue is completely contrary to those values.

At our resort, we are fortunate to have a good friend and frequent visitor who is the Physician Director at the Betty Ford Center, Harry Haroutunian, M.D. "Dr. Harry" in his practice at the BFC treats professionals (physicians, pilots, nurses, attorneys, etc.) and is an international speaker on the disease of addiction. He has spoken to our management team and staff numerous times on the disease of addiction. Dr. Harry visited us last month and gave a talk on the risks of marijuana. His statistics were both insightful and concerning. Below are a few highlights:

The type of marijuana available today (on the street or found in clinics) is 5-7 times more potent than what was available in the 70's.
THC has a profound negative effect on brain development in young people
The use of marijuana can produce adverse physical, mental, emotional and behavioral changes and contrary to popular belief, it can be addictive.
Impairs short term memory, verbal skills and judgment and distorts perception
Has a negative impact to visual search awareness, reaction time, perception and response to velocity changes—impacting driving, skiing and riding.
Marijuana users who have taken high doses of the drug may experience acute toxic psychosis, which includes hallucinations, delusions and depersonalization—a loss of the sense of personal identify
Impact to life coping skills: depression, anxiety, motivation, couch potato syndrome, impacting intellectual reasoning, job, and coping skills

This issue is one that we, as community members, leaders, business owners and operators need to be very concerned about. Limiting access to medical marijuana is one way to begin to address this issue. Our management team who were able to attend the training from Dr. Harry has benefitted from this experience. I urge council to extend the public debate by getting educated and define the correct public policy on medical marijuana.

Sincerely,
Trish Sullivan

Anja Tribble

From: Anja Tribble
Sent: Monday, April 25, 2011 8:44 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] Importance of having safe access to regulated cannabis a licensed medical marijuana

-----Original Message-----

From: Anja Tribble
Sent: Monday, April 25, 2011 8:43 AM
To: 'courtica43100@comcast.net'
Subject: RE: [City Council] Importance of having safe access to regulated cannabis a licensed medical marijuana

Dear Barbara
Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of cortica43100@comcast.net
Sent: Monday, April 25, 2011 4:19 AM
To: Anja Tribble
Subject: [City Council] Importance of having safe access to regulated cannabis a licensed medical marijuana

Barbara J. Escajeda sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I am a nurse. I have a BS in Nursing from the University of Colorado and a MBA from California State University at Long Beach. I have been in health care since 1971 and I am writing to urge the Steamboat City Council to make an informed decision prior to closing any medical marijuana dispensary in Steamboat Springs, Colorado. I have a company Courtica and we provide home health and home hospice services. Medical Marijuana is vital to patients who are in pain, or are suffering from insomnia, ill effects of chemotherapy such as intractable vomiting, diarrhea or any other conditions that are related to treatment of cancer. In addition, I have a medical marijuana card for chronic pain as I am legally disabled. I can provide you with studies from Harvard and four other labs in the state of Colorado for you to read about this wonder herb. Did you know that the number one cause of death in the state of Washington is overdose from prescription medications. Not alcohol or nicotine but overdoses from the poisons that are being sold to Americans by the pharmaceutical industry. I have debated with health care advisors to President Bush. In addition, Dick Lamm, the former three term governor of the state of Colorado is a personal friend of mine. In addition, I have personally met with Senator Tom Udall from New Mexico, Senator Mark Udall, Senator Harry Reid and I can tell you that I will do everything I can to work with you to educate you in the importance of keeping Steamboat Springs Medical Marijuana dispensaries because I own a ranch north of Steamboat

Previously e-mailed

Springs and I will be living and working in Steamboat Springs and I need a safe place to go to buy products that help me with sleep and pain. I would be happy to meet with any of you to discuss this topic further. I urge you to make an educated decision prior to closing any dispensary in Steamboat Springs. Marijuana is not addictive, you cannot overdose from it and no one has ever smoked marijuana and then gone home and killed his wife and family. Alcohol, tobacco, and prescription drugs kill more people. Thank you.

Anja Tribble

From: Anja Tribble
Sent: Thursday, April 28, 2011 12:56 PM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] medical marijuana

-----Original Message-----

From: Anja Tribble
Sent: Thursday, April 28, 2011 12:55 PM
To: 'darcy242@comcast.net'
Subject: RE: [City Council] medical marijuana

Dear Darcy
Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of darcy242@comcast.net
Sent: Thursday, April 28, 2011 11:09 AM
To: Anja Tribble
Subject: [City Council] medical marijuana

Mary Darcy sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I am against allowing medical marijuana dispensaries, as I have recently heard of numerous abuses of the system. It would appear that the majority of those getting marijuana there do not really need it medically. I agree with the police and medical professionals who have outlined the negative effects that this is having on our community and I don't want it to be so easy for high school students to get marijuana.

Anja Tribble

From: Anja Tribble
Sent: Monday, May 02, 2011 8:15 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] marijuana dispensaries

-----Original Message-----

From: Anja Tribble
Sent: Monday, May 02, 2011 8:14 AM
To: 'laharner@hotmail.com'
Subject: RE: [City Council] marijuana dispensaries

Dear Lisa

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of laharner@hotmail.com
Sent: Saturday, April 30, 2011 3:49 PM
To: Anja Tribble
Subject: [City Council] marijuana dispensaries

Lisa A. Harner, M.D. sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

As a physician and community member in Steamboat Springs, I urge you to vote to ban the marijuana dispensaries within our community. Their presence has served to condone the use of marijuana among adolescents and children, in particular, who would not have otherwise considered marijuana to be a viable option in treating somatic or emotional symptoms. It is objectionable to me as a parent as well as a physician that we, as a community, have permitted this to occur, thereby promoting the use and the ease of access to a dangerous and poorly regulated substance with significant adverse health effects. Thank you for your time and consideration as you continue your conscientious efforts to represent and safeguard our community.

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Monday, May 02, 2011 8:20 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; JD Hays; Joel Rae
Cc: Julie Franklin
Subject: FW: [City Council] Medical marijuana

-----Original Message-----

From: Anja Tribble
Sent: Monday, May 02, 2011 8:16 AM
To: 'sheila@pediatricsofsteamboat.com'
Subject: RE: [City Council] Medical marijuana

Dear Sheila

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of sheila@pediatricsofsteamboat.com
Sent: Friday, April 29, 2011 2:19 PM
To: Anja Tribble
Subject: [City Council] Medical marijuana

Sheila Fountain sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

To Whom It May Concern,

I am writing to express my opinion on the issue of medical marijuana in our town. As a pediatrician, my first interest is to provide oversight in the well-being, growth, and development of children and adolescents in Steamboat Springs. I strongly believe that a healthy diet and exercise will prevent many chronic health problems that will face this young generation. I am saddened to think they are seeing the message that medical marijuana will "solve" their health problems, whatever they are. I have heard it is "easy" to get a card, even for the diagnosis of something as simple as eczema. Youth in our town are even reading that they should make a dispensary their "medical home".

The use of daily marijuana amongst teens is on the rise, and has shown a significant increase in just the last year. "The new data stand as one more sign that those who promote medical marijuana and the legalization of marijuana by emphasizing the drug's safety are reducing the perception of risk of use among youth," Dr. Robert DuPont, the first director of the National Institute on Drug Abuse, said in an interview.

I recently cared for a newborn, born to a Mom who used medical marijuana during her pregnancy until 39 weeks. And, despite our medical advice not to breastfeed for at least 4 weeks because of the potential developmental risk to her baby, she chose to breastfeed anyway. So, it's not just her life that is affected, but a developing child. This mom truly believed that she

Previously e-mailed

was not doing anything harmful to her unborn baby by using during pregnancy, and then to her baby while breastfeeding.

While I believe an adult oncologist has every right to prescribe medical marijuana for his cancer patient, I am appalled at the availability of this drug in our town. Steamboat Springs needs to take a stand and be very clear about what is a drug of abuse, and what is truly legitimate medical marijuana. We need to say "no" to dispensaries. Don't send a mixed message to our youth.

Thank you for your time.
Sincerely,

Sheila Fountain, MD, FAAP

Previously e-mailed

Attn: Cari

Dow Jones Reprints: This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers, use the Order Reprints tool at the bottom of any article or visit www.djreprints.com

See a sample reprint in PDF format.

Order a reprint of this article now

THE WALL STREET JOURNAL.

WSJ.com

RECEIVED

MAY 04 2011

*C: Council
Tony
Jon
Wendy
Dan*

U.S. NEWS MAY 2, 2011

Montana Curbs Prescription Pot

By AMY MERRICK

Montana Gov. Brian Schweitzer said he would allow a controversial bill restricting the state's medical-marijuana business to become law without his signature.

The Democratic governor said Friday he still wasn't happy with some aspects of the bill, which will close down Montana's large marijuana-growing operations and make it more difficult for people to get medical marijuana to treat "severe chronic pain." But he said he preferred to have the new rules go into effect rather than continue the existing system, which he called "the wild, wild West."

Montana has been struggling to manage its medical-marijuana industry since voters overwhelmingly approved a law in 2004 allowing patients and caregivers to legally possess some marijuana plants and usable marijuana if they have a doctor's prescription.

The number of Montana users had soared to about 30,000, and medical-marijuana dispensaries had mushroomed across the state.

Earlier this year, Mr. Schweitzer vetoed a bill that would have repealed the 2004 law outright.

Under the new law, which will take effect July 1, patients will have to provide stronger proof of a qualifying illness to get a medical marijuana prescription. Those who are approved may grow their own marijuana or get it free from a provider who may grow it for up to three people.

The governor said Friday that he was concerned some legitimate patients would lose access to medical marijuana because they wouldn't be able to grow their own. He urged lawmakers to take up the issue again the next time they convene, in 2013.

Medical marijuana is legal in 15 states and the District of Columbia, but the U.S. Justice Department recently warned officials in states such as Montana, Colorado, Washington and California that even licensed marijuana operations could be targeted for federal raids. Marijuana is illegal under federal law. In March, federal agents raided marijuana businesses across Montana.

The recent Justice Department crackdown reversed a freewheeling atmosphere for the medical-marijuana industry that had prevailed since 2009, when then-Deputy Attorney General David Ogden sent a memo to U.S. attorneys saying the federal government wouldn't try to prosecute individuals who used medical marijuana in compliance with state law.

WALTER GLASS 879-5899

Anja Tribble

From: Julie Franklin
Sent: Friday, May 13, 2011 8:58 AM
To: City Council; Anja Tribble
Subject: FW: [City Council] Ban on Marijuana Dispensaries...

-----Original Message-----

From: Julie Franklin
Sent: Monday, May 09, 2011 4:21 PM
To: 'burkiesgaga@yahoo.com'
Cc: Jon Roberts; Wendy DuBord; Tony Lettunich; Anja Tribble; Dan Foote
Subject: RE: [City Council] Ban on Marijuana Dispensaries...

Amy,
Thank you for your comment. City Council has received it and it will be forwarded to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of burkiesgaga@yahoo.com
Sent: Monday, May 09, 2011 4:16 PM
To: Julie Franklin; Anja Tribble
Subject: [City Council] Ban on Marijuana Dispensaries...

Amy Burkholder sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

As a parent of young teenagers I am becoming more aware of the presence and availability of alcohol and drugs for our youth. We have made some strong statements about our local values as we instate things like the social host ordinance. The presence of marijuana dispensaries in town is working against the progress that has been made. We as a community have made a statement that we are concerned about our youth and wish to work together to keep them in a safe environment. Disallowing marijuana dispensaries in Steamboat would be a step toward creating and keeping a safe community to raise our children.

Please ban marijuana dispensaries in Steamboat Springs, showing our local youths that the community is supporting a healthy, safe place for them to grow up.

Thank you for representing us with responsible decisions.

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Friday, May 13, 2011 8:58 AM
To: City Council
Cc: Anja Tribble
Subject: FW: Medical Marijuana Question

From: Julie Franklin
Sent: Tuesday, May 10, 2011 10:31 AM
To: 'Amy Ibarra'
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; Anja Tribble
Subject: RE: Medical Marijuana Question

Amy,
 Thank you for your comment. Council has received it and it has been forwarded to the appropriate staff members.
 Sincerely,
 Julie Franklin
 City Clerk

From: Amy Ibarra [mailto:dechiste@yahoo.com]
Sent: Tuesday, May 10, 2011 10:25 AM
To: City Council
Subject: Medical Marijuana Question

I know this is a big topic right now, which has raised a question for me. I thought Steamboat Springs had decided to allow only 3 dispensaries. I know there is one across from Mental Health on Highway 40, but there are also at least 3 in the buildings owned by Les Limon off of Downhill Drive by Waste Management. Is this legal? Why are there more than 3 storefronts distributing marijuana?

I am also aware that tenants in the buildings next to the dispensaries are very concerned because at certain times during the growing of the marijuana, the odor becomes intense outside of their building and into the offices and warehouses nearby, contaminating product and affecting business. I have also been told, that there are frequently cars sitting a few doors down from the dispensaries, waiting to receive marijuana from another customer. It appears one person is buying it legally and then distributing it a few 100 bold feet away.

I realize that there is a large amount of money being funneled through these dispensaries and that the city is benefitting from Sales Taxes. However, I'm concerned that the use is not truly medicinal, it is affecting other businesses, and it is more available and acceptable to our youth. I would ask that you examine the question of allowing dispensaries without greater control and monitoring of the potential issues it creates. I would also strongly encourage the city of Steamboat to not allow grow sites in residential communities! The same negative unintended consequences would also follow into a residential community, increasing safety concerns and deteriorating our community.

Thank you for your consideration.

Previously e-mailed

4-49

5/13/2011

Previously e-mailed

~Amy Ibarra

Director of Service Coordination
40518 Steamboat Drive
Steamboat Springs, CO 80487

Previously e-mailed

4-50

5/13/2011

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Tuesday, May 10, 2011 11:00 AM
To: Susan Corser
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; Anja Tribble
Subject: RE: medical marijuana

Dear Susan,
Thank you for your comment. City Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

From: Susan Corser [mailto:susan@ecadesignplan.com]
Sent: Tuesday, May 10, 2011 10:52 AM
To: City Council
Subject: medical marijuana

Dear City Council:

I urge you to place a ban on the medical marijuana dispensaries in this community. If this is not possible I think there should be a requirement that marijuana from local dispensaries can only be prescribed by local physicians working here on a full time basis. This community already sees a disproportionate amount of alcohol and other substance abuse in our teenage population. There have been numerous teenage deaths in recent years, some of which have been partially attributed to substance abuse. Why are we making marijuana essentially legal, or at least easy, to obtain? A local physician recently told me that THC is actually available as a FDA-controlled prescription drug for cancer patients and other pain issues. If that's the case, why do we need marijuana plants as well? Please ban medical marijuana dispensaries in the community.

Susan Ernst Corser

Phone: 970 870 8624
Mobile: 970 846 3892
Email: susan@ecadesignplan.com

Previously e-mailed

4-51

5/13/2011

Anja Tribble

From: Julie Franklin
Sent: Tuesday, May 10, 2011 2:01 PM
To: The Flanigans
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; Anja Tribble; JD Hays; Tyler Gibbs
Subject: RE: Medical Marijuana Dispensary Letter

Millie,
Thank you for your comment. Council has received it and it has been sent to the appropriate staff members. Also, please note that though the meeting starts at 5:00pm, there are several items on the agenda before this item. See the beginning portion of the agenda below:

- A. ROLL CALL (5:00pm)

- B. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:
 - 1. Joint Worksession with the Upper Yampa Water Conservancy District. (45 minutes)
 - 2. First quarter financial update. (Hinsvark) (30 minutes)
 - 3. Noise ordinance discussion.
 - 4. Discussion on Medical Marijuana Centers and the possibility of banning them.

Sincerely,
Julie Franklin
City Clerk

-----Original Message-----
From: The Flanigans [mailto:milandgard@gmail.com]
Sent: Tuesday, May 10, 2011 1:46 PM
To: City Council
Subject: Fwd: Medical Marijuana Dispensary Letter

Dear City council members. I am forwarding you a copy of an email I sent out yesterday. I realize it is much easier to take a stand when one is simply expressing their own opinion vs representing the opinions of many. I appreciate that this is a difficult subject though feel strongly that the status quo is not working.

Thank you all for the hard work you do on behalf of our community.
Sincerely,
Millie Flanigan

The question addressed in this email is: Do the benefits of medical marijuana dispensaries in our community outweigh the risks? I would propose that they do not and think it is imperative that those of us that feel this way let our City Council members know how we feel.

House Bill 1284 which was passed and signed into law in 2010 gave local municipalities the authority to ban dispensaries. Since that time numerous communities in Colorado including; Grand Junction, Castle Rock, Superior, Hayden, Kremmling, Broomfield have implemented such bans.

There has been talk in the past week of the Federal Government getting involved to address this issue with an anticipated outcome of putting an end to the current "dispensary model". I believe that our community represented by our council would be best served not by taking a wait and see approach but rather by taking a stand on this issue. I believe the current state of this "dispensary model" was not what was intended when Amendment 20 was passed. The impact this "dispensary model" has

Previously e-mailed

had on our community and the message it sends to our youth in particular is unacceptable. It is difficult to predict the exact outcome and time frame of what will take place at a federal level. Putting this issue off not only allows the current state of affairs to go on for who knows how long but by not acting we also miss the critical opportunity to send a clear message that the current "dispensary model" and what it represents is not what Steamboat Springs wants. Whether this is addressed by a council vote or a community wide vote it must be addressed and the time is now.

City Council will address this issue at their meeting May 17th in Citizens' Hall, 124 10th St. at 5 pm. Please attend this meeting if you are able. Whether you are able to attend or not send an email to your city council persons letting them know how you feel. It is critical that they hear from you so they are best able to represent their constituents.

citycouncil@steamboatsprings.net

Below is additional information that addresses some of the specific issues that have been raised.

If you do not have time to read further PLEASE FORWARD THIS EMAIL to others who may have an interest in this issue.

HOW WE GOT WHERE WE ARE

I have to admit when the dispensaries started opening up in our community several years ago and ads started showing up in the paper I was not clear as to why all of the sudden this was happening. I thought to myself, "Did we vote again and I just didn't realize it?" I recalled Amendment 20 being passed in 2000 that made medical marijuana legal in the state of Colorado. My understanding was that a small number of individuals with specific illnesses would through their primary physician be able to get a license to grow their own limited number of plants for their own personal use. It seemed that from 2000 to 2009 this new amendment had very limited impact on our community.

It was brought to my attention last month when the issue was raised at City Council to consider a ban on dispensaries that there had been a significant shift which had occurred in 2009 regarding how Amendment 20 was being interpreted in our state. This shift seems to have resulted from

a 2009 Department of Justice memo which described a relaxation of the enforcement of federal drug laws related to medical marijuana use (it is illegal at a federal level) and a ruling by the state health board in 2009 which rejected a proposed limit on the number of patients a caregiver can supply with medicinal marijuana. The end result was dispensaries which supply marijuana to 100s of individuals began popping up all over the state. Towns scrambled to regulate the industry and in many instances to limit the number of dispensaries which could operate in their communities. The number of medical marijuana licenses issued rose dramatically and the "dispensary model" took hold.

Once dispensaries opened I believe the entire face of this issue changed. Much of this change was caused by an influx of medical doctors whom the dispensaries approached. These doctors who in many cases had come to town for a weekend or a day issued prescriptions to "patients" that they had met on one occasion in a hotel room or prior to a change in the law at the dispensary. These licenses then allow the patient to receive their allotted amount of marijuana once a month for 1 year with no further follow up needed. I often wonder what percentage of patients who see these providers are turned down. It seems to me almost most everyone receives a license. As one license holder said to me, "Oh no, I don't have back pain. I just had to say that to get my license."

Along with dispensaries and the huge increase in license holders came a shift in the impact medical marijuana has on our community not the least of which is full page color ads that read like pages out of Willy Wonka and The Chocolate Factory.

THE IMPACT OF DISPENSARIES ON OUR COMMUNITY AND OUR CHILDREN IN PARTICULAR

Previously e-mailed

AVAILABILITY: With the considerable number of license holders there is simply more marijuana in our community. I think it would be difficult to argue against the fact that the amount of marijuana in our community has increased substantially and with increased saturation of the drug comes increased availability to individuals of all ages with or without a license.

ACCEPTABILITY :The "dispensary model" exposes the youth of our community, including the very young, to the belief that marijuana is neither harmful nor addictive and is really no big deal. The question is not whether marijuana is better or worse than alcohol or prescription drugs, that is an entirely different debate. The problem is that marijuana is being billed as "medicinal" but is playing by an entirely different set of rules than other prescription drugs.

Though other prescription drugs may be over prescribed and are certainly an issue in our community access to these drugs is entirely different than what is taking place with marijuana. I imagine we would all be up in arms if there were doctors coming to town on weekends to write multiple prescriptions for an entire year of Vicoden or Percocet to individuals they were meeting for the first time with no plan in place for follow up.

Add to this dispensaries that sold percocet infused brownies and we would go up for grabs. If marijuana truly is to be "medicinal" it should be playing by the same rules as other medicinal drugs. The ease of access to a medicinal marijuana prescription coupled with the bakery/candy store presentation of dispensaries and their extensive advertising blurs any clear picture as to if this drug is truly medicinal or simply recreational. It is this mixed message which I believe is most dangerous to our youth.

PERCEPTION: Steamboat bills itself as a world class resort; "Ski Town USA" Are full page color ads plastered all over our daily papers advertising the likes of "Cheeba chews, Kandy Kush and Fridays as Free Keef Cola day" best representing our community? A family friend visiting from Boston was incredulous as to how this was happening in our community. I share her sentiment.

I have heard the argument that it is up to parents to raise their children in such a way that they will make "good" choices. I aim for this in my parenting each and every day though I am not so naive as to think that my children would not benefit from barriers to potentially risky behavior.

WHAT ARE THE RISKS OF A BAN?

Arguments against a ban of dispensaries have raised the concern that all of these license holders will then start growing marijuana in their residences and that it will be unregulated. It is possible that some individuals may grow their own 6 plants in their own homes or may even become caregivers thereby being allowed to supply marijuana for up to 5 patients. However, this takes some level of commitment and investment which many individual who are happy to stop by the dispensary will choose to forgo. I also believe that without dispensaries we will not have doctors coming to town on a regular basis to write mass prescriptions. Based on this I would anticipate that the population of licence holders would dwindle over time and that eventually we will get closer to how things were from 2000 to 2009.

I have heard if the city bans dispensaries the dispensary in Milner would not be impacted and will become the "only show in town".

I think Commissioner Monger made it clear that the county would be willing to address this issue and consider a county wide vote on this issue.

The possibility of future legal issues related to this type of ban have been raised. I do not believe that the perceived possible risk of a future legal proceeding outweighs the current risk of what is happening in our community.

It has been argued that owners of these dispensaries have invested in our community and employ a significant numbers of employees. Once again the benefits to a few do not in my mind outweigh the risks to many.

Others have suggested that all of the dispensaries will simply move to Oak Creek. I have a hard time believing that the community of Oak Creek wants to be the mecca for medical marijuana dispensaries and time will tell how they choose to approach this issue.

Previously e-mailed

The most compelling argument supporting the dispensaries is that some individuals have truly benefited from them. I believe this is true for a small number of individuals though do not feel that the benefit to these few outweighs the risk to our entire community. These individuals will continue to be served by Amendment 20 without the negative impact of the dispensaries.

WHAT NOW?

It is easy to become complacent in our busy lives and hope that it all works out. I believe strongly that the present approach to this issue in our community is a far cry from what was intended when Amendment 20 was passed. The risk to our community and our children in particular is too great for us not to revisit this issue. We must decide as a community how we want this issue to be handled in our town.

I encourage you to contact your city council persons and if possible attend the city council meeting May 17th.

PLEASE FORWARD THIS EMAIL TO SPREAD THE WORD ABOUT THIS TIME CRITICAL ISSUE.

Sincerely,
Millie Flanigan

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Tuesday, May 10, 2011 3:40 PM
To: Dan Elliott
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: "Medical Kandy Kush"

Dan,
Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

From: Dan Elliott [mailto:26danell@gmail.com]
Sent: Tuesday, May 10, 2011 3:29 PM
To: City Council
Subject: "Medical Kandy Kush"

My name is Daniel H. Elliott. I reside at 250 Storm Peak Ct., Steamboat Springs Colorado.

I want to state that as a parent of 2 teenage boys, I am very upset at the current marketing and sales practices of the dispensaries in Steamboat and surrounding Routt County. It clearly targets teenagers and youth. There are no health warnings on the ads. The radio adds are ridiculous, impersonating stoners Cheech and Chong acquiring their stash at Aloha's. Hash brownies, cookies, and soda pop? Our kids will be expelled from school, or kicked off their team, if they are caught with the products that that City Council clearly knows is being marketed to them as "Kandy". I feel so strongly against the adds placed in our local "Free" newspaper, that I will no longer pay for the Pilot and Today, or purchase legitimate products and services advertised in their Business Directory or classified add section, along with the four or five dispensary adds.

Please support our children, teachers, coaches, and police department and ban the current Dispensary model. I am sure a better model for helping the 2000 plus "legitimate" medical marijuana users in Routt county can be developed.

Thank you,

Daniel H. Elliott

Previously e-mailed

4-56

5/13/2011

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Tuesday, May 10, 2011 3:42 PM
To: Ben Gero
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: ban

Ben,
Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

From: Ben Gero [mailto:bnc@zirkel.us]
Sent: Tuesday, May 10, 2011 3:40 PM
To: City Council
Subject: ban

Please Ban the medical marijuana dispensaries in the Steamboat Area. Protect our kids! Ben and Cathy Gero

Previously e-mailed

4-57

5/13/2011

Anja Tribble

From: Julie Franklin
Sent: Friday, May 13, 2011 9:00 AM
To: City Council
Cc: Anja Tribble
Subject: FW: [City Council] Ban Marijuana Dispensaries

-----Original Message-----

From: Julie Franklin
Sent: Wednesday, May 11, 2011 8:08 AM
To: 'brilorharrington@comcast.net'
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: [City Council] Ban Marijuana Dispensaries

Brian,
Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of brilorharrington@comcast.net
Sent: Wednesday, May 11, 2011 2:47 AM
To: Julie Franklin; Anja Tribble
Subject: [City Council] Ban Marijuana Dispensaries

Brian Harrington, MD, MPH, FAAFP sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear City Council Members:

I and fellow Steamboat Springs medical professionals consider marijuana dispensaries bad for the health of our community and ask that you ban them.

We are not asking you to ban medical marijuana. Rather, marijuana dispensaries have no place in what should be a very limited role for marijuana in medicine. Marijuana dispensaries promulgate the misuse and abuse of marijuana. Amendment 20 made absolutely no mention of dispensaries.

House Bill 1284 specifically gives municipalities the right to ban dispensaries. Marijuana dispensaries claim they are necessary for the health care needs of patients and we refute that accusation. Marijuana dispensaries are not needed for the purported health needs of individuals. Individuals who believed they needed to use marijuana for medical reasons were doing so before we had dispensaries, and will continue to do so after we ban dispensaries. Any decision to keep marijuana dispensaries should not be based on the false premise of medical legitimacy.

1. The Steamboat Springs medical community did not ask for marijuana dispensaries here and does not support them. Marijuana is currently classified as a Schedule I substance –addictive, harmful, and no medical benefit. Laboratory research has suggested some areas of potential benefit that warrant further research. But marijuana plants have not gone through the research and validation process that other medications go through in the US, Canada, or Europe. We do not know its efficacy, safety, dose ranges, potency, adverse affect profile, or have any standardization for its use. There have been few and inadequate randomized controlled trials to prove its use, which are the cornerstones of getting FDA approval for a prescription

Previously e-mailed

drug. This is not the way that we do medicine in the developed world.

Marijuana does not cure anything. According to Ned Colange, MD the recent Colorado Public Health Officer, "No one has ever died from a lack of marijuana."

2. Marijuana has known adverse affects on the immune system, lungs, mental health conditions, cognition, balance, the fetus/newborn of a mother who smokes marijuana, and other health related issues. Marijuana plants can contain over 400 active ingredients. Inhaling a smoke (brunt particles) fails the common sense test whether or not you have a medical degree. Studies have demonstrated more carcinogens in a joint than in some of the newer cigarettes. There is no rational argument for smoking marijuana.

3. Marijuana is addictive. The American Society of Addiction Medicine, the American Psychiatric Association, and numerous other national medical groups and addiction specialists in the US consider marijuana addictive. The medical marijuana dispensaries have been creating more potent strains of marijuana, with potentially more dangerous affects and addiction potential than before.

4. Marijuana is bad for youth. Marijuana has negative impacts on the developing brain of children and teenagers. Youth who use marijuana have a higher rate of developing psychotic disorders as an adult.

5. Marijuana may be a gateway drug. There is some evidence to suggest that those who use marijuana are more likely than those who do not use marijuana to go to using other dangerous drugs such as cocaine. There is some debate on this subject though.

6. We have seen numerous examples of patently false and tasteless advertising for "medical" marijuana use and recreation drug use in our local newspaper by the local marijuana dispensaries. Just recently the newspaper printed an article about one of the local dispensaries getting an award at a marijuana contest. In the article the dispensary owner talks about recommending his award winning strain as "a sleep aid and for relaxation." But Amendment 20 did not list this as a legal indication! Dispensary owners and staff are not medical professionals and are promoting their drugs for recreational use.

7. Some pot proponents argue that alcohol kills many more people, and that abuse of prescription narcotics is a major problem. Both are true, but that is a straw man argument and in no way refutes the inherent dangers of marijuana. Adding marijuana to this mix only makes things worse. Increasing the local amount of marijuana and making it easier to get only worsens our problems with substance abuse.

8. Marijuana dispensaries are bad for Steamboat business. We are seeing more workers comp cases where employees were high on pot. Employers report that they are having a harder time hiring because more applicants now tout that they smoke marijuana for medical purposes, and it is "legal here in Steamboat." Steamboat Springs is a tourist town, and being known as "Pot Town USA" will not help attract people here or help visitors think of us as a safe or family friendly town.

9. The user statistics illustrate the false intent of many medical marijuana.

Many people who voted for Amendment 20 expected only a few hundred or thousand would ever qualify for medical marijuana use. Yet according to the Colorado Medical Marijuana Registry:

- 137, 556 new patient applications have been received to date since the registry began operating in June 2001. The great majority occurred since the opening of dispensaries.
- Sixty-nine percent (69%) of approved applicants are male
- The average age of all patients is 40. Currently 40 patients are minors (<18)
- Ninety-four percent (94%) of approved applications are for "severe pain."

Marijuana dispensaries have developed under the false pretext of medical need. Some people have embraced the sad lie that pot is safe, healthful, and a well researched medicine. They think recreational pot use is now legal in Steamboat. It is easy for the pot proponents to find some people who like to smoke marijuana, and just happen to claim it helps some medical condition of

Previously e-mailed

theirs. In contrast, those of us in opposition have a hard time convincing our patients who have suffered from marijuana use to come forward publicly. I now see more of these people because the presence of marijuana dispensaries have given them the belief that pot smoking is now "safe" and "therapeutic," and now they can get pot easily in Steamboat. I can not get the pregnant mothers who smoke pot to write to you saying they are sorry for the harm they caused their unborn child. I can not get the teenagers whom I admit to the hospital high on pot to write you a letter. I can not get the young woman with a knee injury from skiing tell you she missed most of the ski season because she got some pot from a local dispensary instead of doing proven therapies for healing her knee injury. I can not get the man who committed suicide while high on pot to come alive again and tell you what a mistake he made. I can not get the gentleman with emphysema to tell you how his pot habit is only making his lung condition worse. There are many real patient stories about the abuse of medical marijuana that I wish you could hear.

Pot proponents and many pro marijuana websites make gross distortions of medical science and policy statements by national medical organizations. I provide the following references and citations so you can go to the sources and read some of the national experts yourself. The reports also contain extensive reference lists with primary research citations.

1. Institute of Medicine Report Marijuana and Medicine. (1999) Read report on line at http://books.nap.edu/openbook.php?record_id=6376&page=R1 Contrary to distortions by pot proponents, this report does NOT endorse the routine use of medical marijuana. Rather, it stipulates that further research is needed to prove its efficacy, dosages, and safety profile. Marijuana has potential benefits; smoking is a crude delivery system that also delivers harmful substances; marijuana has harmful health effects; marijuana is addictive and users develop a tolerance
2. American Society of Addiction Medicine White Paper on The Role of the Physician in "Medical" Marijuana. (Sep 2010) See attached document. Marijuana is "widely abused and a major cause of drug dependence in the United States and around the World" and "should be subjugated to the rigorous scrutiny of the FDA regulatory process."
3. American Psychiatric Association position statement on Marijuana as Medicine. (2009) Read summary statement at <http://www.psych.org/Departments/EDU/Library/APAOfficialDocumentsandRelated/PositionStatements/200908.aspx> Pot proponents claims that that the APA endorses medical marijuana are false. Rather, the APA believes research is needed to prove its clinical applications, and that "given the problems inherent in using the plant material in smoked form, every effort should be made to use non-smoked routes in treatment."
4. American Medical Association policy statement on Medical Marijuana. (2009). Read a summary on line at <http://www.ama-assn.org/amednews/2009/11/23/prsel123.htm> Again, this has been distorted by pot proponents who falsely claim the AMA endorses medical marijuana. The AMA and many national medical specialty groups recommend research to determine what role marijuana may have in medicine. To facilitate that, the AMA recommends that the FDA change marijuana from a Schedule I to a schedule II drug to make research easier. Specifically, the policy "should not be viewed as an endorsement of state-based medical cannabis programs, the legalization of marijuana, or that scientific evidence on the therapeutic use of cannabis meets the current standards for a prescription drug."
5. American Academy of Pediatrics policy statement on Legalization of Marijuana: Potential Impact on Youth. (June 2004). Marijuana is the illicit substance most commonly abused by youth. "The AAP opposes the legalization of marijuana" and "supports rigorous research" to determine whether it "has any potential therapeutic effect." "In contrast", its adverse effects "are well known."
6. National Institute for Drug Addiction. (Part of the National Institutes of Health). Go to <http://www.nida.nih.gov/DrugPages/Marijuana.html> for a wealth of information on the adverse health effects and addiction potential of marijuana. I have also attached the National Institute for Drug Addiction Research Report on Marijuana Abuse.

Here are some additional and recent research studies on marijuana:

Previously e-mailed

Medical marijuana 2010: it's time to fix the regulatory vacuum. Cohen PJ. *Journal of Law, Medicine & Ethics*. 38(3):654-66, 2010 Sep. Discusses that state statutes have been vaguely worded and that oversight of this drug needs to be brought up to the standard that we have for other controlled substances with supposed medical utility.

Pediatric cannabinoid hyperemesis: two cases. Miller JB. Walsh M. Patel PA. Rogan M. Arnold C. Maloney M. Donnino M. *Pediatric Emergency Care*. 26(12):919-20, 2010 Dec. Severe vomiting syndrome has been well described in adults using chronic marijuana. This reports details a similar syndrome in two pediatric patients using recreational marijuana.

Sex, drugs, and cognition: effects of marijuana. Anderson BM. Rizzo M. Block RI. Pearlson GD. O'Leary DS. *Journal of Psychoactive Drugs*. 42(4):413-24, 2010 Dec. This was a randomized controlled trial that found men and women had equal rates adverse effects on attention, time estimation, and visuospatial processing with acute marijuana use.

Adolescent brain maturation, the endogenous cannabinoid system and the neurobiology of cannabis-induced schizophrenia. Bossong MG. Niesink RJ. *Progress in Neurobiology*. 92(3):370-85, 2010 Nov. This review article summarizes the medical evidence that shows marijuana use in adolescence is associated with the risk of developing psychotic disorders later in life.

The effects of cannabis and alcohol on simulated arterial driving: Influences of driving experience and task demand. Lenne MG. Dietze PM. Triggs TJ. Walmsley S. Murphy B. Redman JR. *Accident Analysis & Prevention*. 42(3):859-66, 2010 May. This was a US Government funded study that compared marijuana and alcohol use on driving abilities, using standardized doses of both in a driving test. It found that both marijuana and alcohol impair driving ability.

Cannabis withdrawal symptoms in non-treatment-seeking adult cannabis smokers. Levin KH. Copersino ML. Heishman SJ. Liu F. Kelly DL. Boggs DL. Gorelick DA. *Drug & Alcohol Dependence*. 111(1-2):120-7, 2010 Sep 1. This study evaluated 469 adult chronic marijuana smokers who tried to quit using marijuana. 95% reported some withdrawal symptoms when quitting, and 41.5% turned to alcohol to relieve their withdrawal symptoms.

Exposure to cannabis in popular music and cannabis use among adolescents. Primack BA. Douglas EL. Kraemer KL. *Addiction*. 105(3):515-23, 2010 Mar. This was an interesting study where they surveyed 949 9th grade students at 3 urban high schools. They assessed how many references to marijuana they heard each day in music they heard. Those 9th graders in the highest tertile who heard more marijuana references were twice as likely in the next 30 days to use marijuana as those in the lowest tertile of exposure to marijuana references. This parallels the rich body of tobacco use research that demonstrates that the more youth hear a substance popularized, the more likely they are to use it.

Systematic review and meta-analysis of cannabis treatment for chronic pain. [Review] [54 refs] Martin-Sanchez E. Furukawa TA. Taylor J. Martin JL. *Pain Medicine*. 10(8):1353-68, 2009 Nov. This was a meta-analysis, combining the results of 18 trials that met inclusion criteria. The authors concluded: "Currently available evidence suggests that cannabis treatment is moderately efficacious for treatment of chronic pain, but beneficial effects may be partially (or completely) offset by potentially serious harms. More evidence from larger, well-designed trials is needed to clarify the true balance of benefits to harms."

Respectfully:

Brian Harrington, MD, MPH, FAAFP
Board Certified Family Physician
Routt County Public Health Officer
Level II Accredited Provider, Colorado Division of Worker's Compensation



The Role of the Physician in “Medical” Marijuana

September 2010

The Role of the Physician in “Medical” Marijuana

President’s Action Committee on Medical Marijuana of the American Society of Addiction Medicine. Members of the committee:

Andrea G. Barthwell, MD, FASAM, Co-chair, ASAM President’s Action Committee on Medical Marijuana; Medical and Scientific Policy Advisor, Center for Lawful Access and Deterrence; President, Two Dreams Outer Banks, Corolla, North Carolina

Louis E. Baxter, Sr., MD, President of ASAM; Member, ASAM President’s Action Committee on Medical Marijuana;

Timmen Cermak, MD, Member, ASAM President’s Action Committee on Medical Marijuana;

Robert DuPont, MD, Co-chair, ASAM President’s Action Committee on Medical Marijuana;

Mark L. Kraus, MD, FASAM, Member, ASAM President’s Action Committee on Medical Marijuana; Assistant Clinical Professor of Medicine, Yale University School of Medicine, New Haven, Connecticut; primary care general internal medicine/addiction medicine, Westside Medical Group, P.C., Waterbury, Connecticut; and Chief Medical Officer, Connecticut Counseling Centers, Danbury, Connecticut

Petros Levounis, MD, FASAM, Member, ASAM President’s Action Committee on Medical Marijuana; Director, The Addiction Institute of New York Chief; Division of Addiction Psychiatry and Associate Chair for Clinical Services, St. Luke's and Roosevelt Hospitals; Associate Clinical Professor of Psychiatry, Columbia University College of Physicians & Surgeons, New York, New York

Based on a literature review, consensus discussions, and a field review, the Action Committee developed a series of findings, conclusions and recommendations regarding the therapeutic value of smoked marijuana and the role of physicians in the prescribing of marijuana for medicinal purposes.

Previously e-mailed

September 2010

ABSTRACT

Objectives: Research into the therapeutic potential of cannabis and cannabinoids has lagged behind that of other modern medications. The recent discovery and elucidation of the endocannabinoid receptor system, coupled with improvements in technology and new research tools, has facilitated analytical, pharmacological, and other preclinical research. The conundrum in many states is that liberal cannabis distribution to patients with various medical conditions occurs in a setting where little scientific evidence exists to guide this process in a rational, ethical manner to protect patient health and safety. The purpose of this review is to examine the circumstances that led to this situation and explore the scientific issues involved in moving toward a resolution. It also sets out recommendations to assist physicians in coping with these issues and proposes policy recommendations for consideration that, if adopted, could reduce the potential for more problems in the future.

Results: Review findings indicate that in order to think clearly about “medical marijuana,” one must distinguish first between 1) the therapeutic potentials of specific chemicals found in marijuana that are delivered in controlled doses by nontoxic delivery systems, and 2) smoked marijuana. Second, one must consider the drug approval process in the context of public health, not just for medical marijuana but also for all medicines and especially for controlled substances. Controlled substances are drugs that have recognized abuse potential. Marijuana is high on that list because it is widely abused and a major cause of drug dependence in the United States and around the world. When physicians recommend use of scheduled substances, they must exercise great care. The current pattern of “medical marijuana” use in the United States is far from that standard.

Conclusions: All cannabis-based and cannabinoid medications should be subjected to the rigorous scrutiny of the Federal Food and Drug Administration (FDA) regulatory process. This process provides important protections for patients, making medications available only when they: 1) are standardized by identity, purity, potency and quality; 2) are accompanied by adequate directions for use in the approved medical indication; and 3) have risk/benefit profiles that have been defined in well-controlled clinical trials.

Key Words: cannabis, cannabinoid medication, medical marijuana

Executive Summary

Research into the therapeutic potential of cannabis and cannabinoids has lagged behind that of other modern medications. The recent discovery and elucidation of the endocannabinoid receptor system, coupled with improvements in technology and new research tools, has facilitated analytical, pharmacological, and other preclinical research. Clinical research is also increasing, although only a small number of controlled studies meeting modern scientific standards have been published.

All cannabis-based and cannabinoid medications should be subjected to the rigorous scrutiny of the Federal Food and Drug Administration (FDA)¹ regulatory process. This process provides important protections for patients, making medications available only when they: 1) are standardized by identity, purity, potency and quality; 2) are accompanied by adequate directions for use in the approved medical indication; and 3) have risk/benefit profiles that have been defined in well-controlled clinical trials. The FDA has set forth the criteria that must be met if a botanically-based medication is to achieve marketing approval through this process.

All major medical organizations support the FDA approval process. Both the American Medical Association (AMA) and the American College of Physicians (ACP) have rejected the use of state legislative enactments to determine whether a medication should be made available to patients. The Institute of Medicine has also rejected this approach and has called for further research into the development of nonsmoked, reliable delivery systems for cannabis-derived and cannabinoid medications. Rigorous research is needed better to understand the significance of different cannabinoid formulations and ratios, methods of administration, and dose-response relationships. Cannabis has a range of effects, some of which may be disturbing to patients with serious medical conditions, adversely impact their cognitive skills, or impair their lung function. Such effects should be better understood, particularly in the context of chronic medical use.

“Medical marijuana,” currently distributed pursuant to state legislation, does not accord with critically important aspects of the modern scientific model. It lacks quality control and standardization; can be contaminated with pesticides and microbes; and does not assure patients a reliable and reproducible dose. Increased cannabis potency heightens the risk of adverse events, especially among cannabis-naïve patients, as well as the dangers of dependence and addiction. There are no effective risk management measures to prevent diversion and abuse, especially by adolescents.

The practice of medicine must be evidence-based; all medical interventions should be justified by high-quality data. Despite the paucity of rigorous scientific data, dispensaries are now distributing cannabis and cannabis products to large numbers of

¹ Some individuals criticize the FDA as an imperfect, flawed system, but its process is the standard for medication approval in the United States. There is no rationale for carving out large scale exceptions to this review process. Any rationale offered loses currency when one considers the potential harm associated with increasing the availability of a substance with a high abuse liability.

individuals. Yet physicians, who are the gatekeepers of this process under state law, have inadequate information on which to base their judgment if they choose to discuss cannabis as a treatment option with their patients. Physicians should carefully consider their ethical and professional responsibilities before issuing a cannabis recommendation to a patient. A physician should not advise a patient to seek a treatment option about which the physician has inadequate information regarding composition, dose, side effects, or appropriate therapeutic targets and patient populations.

Introduction

During the past 40 years, popular interest in the therapeutic potential of cannabis has significantly increased, propagated by widespread media attention. Because cannabinoid research poses special challenges, data from such research have accumulated slowly and only recently have gained substantial attention within the scientific and medical communities. The conundrum in many states is: liberal cannabis distribution to patients with various medical conditions; little scientific evidence exists to guide this process in a rational, ethical manner which ensures patient health and safety. This report will examine the circumstances that led to this situation and explore the scientific issues involved in moving toward a resolution. It will also set out recommendations to assist physicians in coping with these issues and propose policy recommendations for consideration that are intended to reduce the potential for more problems in the future.

Modern History of Cannabis in Medicine

In the early part of the 19th century, the European medical community became aware of the therapeutic potential of cannabis-based medications. Dr. William O'Shaughnessy, an Irish physician, conducted clinical and nonclinical work in India with cannabis preparations and upon his return to England, the results of his studies became widely known. Across Europe and North America interest increased in the therapeutic potential of these materials. (O'Shaughnessy WB, 1973) Pharmacists and early pharmaceutical companies (Hamilton HC, Lescohier AW & Perkins RA, 1913) developed oral cannabis extracts and tinctures² for various medical conditions. These cannabis preparations were unstable and unreliable, however, because unlike opiates, cannabinoids are lipid-, rather than water-soluble, and sensitive to degradation by heat and light (Garrett ER, Hunt CA, 1974). Because of these characteristics, and the limited technology available at the time, the active ingredients in cannabis preparations were unknown, the preparations lacked standardization, and patient response was variable (Walton RP, 1928).

² Historically, cannabis was used for therapeutic purposes primarily in the form of teas, extracts, tinctures (grains of hemp/hashish resin dissolved in alcohol)—**not in smoked form**. Only in rare cases, involving respiratory conditions was cannabis inhaled. In the 1800s, the composition of this resin would have been about half THC and CBD (of its primary cannabinoids). (Russo EB, 2007). See discussion below.

Reports often blame the enactment of the federal Marihuana Tax Act of 1937, which imposed administrative limitations on the prescription of cannabis preparations,³ for the contraction in the use of marijuana in medicine. The main reasons for this disappearance were the variable potency of cannabis extracts, the erratic and unpredictable individual responses, the introduction of synthetic and more stable pharmaceutical substitutes such as aspirin, chloral hydrate and barbiturates, and the recognition of important adverse effects such as anxiety and cognitive impairment (Fankhauser M, 2002). Accordingly, cannabis preparations gradually fell out of use by the medical profession.⁴ As one prominent physician in 1938 noted (Walton RP, 1938)⁵:

The therapeutic application of Cannabis is more a matter of history than of present-day practice. Synthetic analgesics and hypnotics have almost entirely displaced these preparations from their original field of application. The newer synthetics are more effective and reliable and, in addition, have been more intensively exploited by commercial interests...The drug has certain remarkable properties and **if its chemical structure were determined and synthetic variations developed**, some of these might prove to be particularly valuable, both as therapeutic agents and as experimental tools (Walton RP, 1938).

Walton's predictions today remain both hopeful and elusive.

Because of the technological challenges involved in cannabinoid formulation and research, it was not until 1964 that the primary psychoactive ingredient in cannabis, delta-9-tetrahydrocannabinol (THC), was identified and synthesized (Mechoulam R & Gaoni Y, 1965). Coincidentally, popular interest in smoked cannabis began to increase significantly. A number of individuals reported that smoking cannabis for recreational purposes seemed to alleviate some of their medical symptoms. Interest grew in finding therapeutic uses for smoked cannabis. More advanced technology in the 1800s and early 1900s might have made a range of cannabinoid medications—similar to that of modern opiates—available, and cannabis smoking might have been relegated to the realm of non-dependent, non-

³ The AMA Committee on Legislative Activities expressed concern about the negative impact that the Act would have on the availability of cannabis preparations but acknowledged that such preparations were little used:

“Cannabis at the present time is slightly used for medicinal purposes, but it would seem worthwhile to maintain its status as a medicinal agent for such purposes as it now has. **There is a possibility that a re-study of the drug by modern means may show other advantages to be derived from its medicinal use.**”

⁴ A similar situation occurred in the treatment of cancer chemotherapy-induced nausea and vomiting. In the 1970s and 1980s, there was considerable interest in using smoked cannabis and oral THC for these conditions, since existing treatments were inadequate for control of emesis. A number of state departments of health conducted open label studies comparing smoked marijuana, oral THC, and existing antiemetics. Following the development of more effective antiemetic agents such as the 5-HT₃ receptor antagonists interest in using oral THC and smoked cannabis to prevent acute vomiting waned. (Council on Scientific Affairs Report 6, 2001).

⁵ At about that time, Dr. Walton was Professor and Head of the Department of Pharmacology and Therapeutics, Medical College of South Carolina, Charleston, S.C., and wrote and published on cannabis in 1938.

medical use for pleasure (McCarberg WH & Barkin RL, 2007).⁶ Thus, the “lag” in the technological capabilities of modern science probably contributed to the controversy of “medical marijuana.” That technology has now arrived, and the era of modern cannabinoid medication development is well on its way.

The Basis for Cannabinoid Therapeutics

Momentum for developing cannabinoid medications gained force only after the discovery of endocannabinoid receptors (Munro S, Thomas KL, & Abu-Shaar M, 1993; Howlett AC, 1995) and the brain’s endogenous cannabinoid ligands in the late 1980s and early 1990s (Devane WA, Hanus L, Breuer A et al, 1992). These monumental discoveries, parallel in their basic framework to the discovery of the brain’s endogenous morphine-like neural system (the endorphins), transformed the focus of research from marijuana to the brain itself. These discoveries marked the dawn of cannabinoid neuroscience.

We now understand that an extensive system of nerves within the brain communicate with each other using the same basic chemistry found in marijuana. While we are only beginning to unravel the role the endocannabinoid system plays in overall brain function, Raphael Mechoulam has declared that “The cannabinoid receptors are found in higher concentrations than any other receptor in the brain... and the endocannabinoid system acts essentially in just about every physiological system that people have looked into, so it appears to be a very central system” (Brown D, 2005-2006).

Cannabinoid type 1 (CB1) receptors are distributed throughout the brain, where they are concentrated in the hippocampus, amygdala, basal ganglia, cerebellum, nucleus accumbens and cortex (anterior > posterior). Cannabinoid type 2 (CB2) receptors are generally located peripherally (Herkenham M, Lynn AB, Little MD, et al, 1990). Tonic activity within the endocannabinoid system is continuously modulating a huge variety of physiological and brain functions, including short-term memory, learning, appetite, anxiety/fear, pain, and spontaneous motor activity.

Two aspects of the endocannabinoid system are important from the addiction medicine perspective. First, CB1 receptors and endocannabinoid ligands are heavily concentrated in the nucleus accumbens – the final common pathway activated by drugs of addiction in the Reward Center. Frequent flooding of these receptors by the ingestion of exogenous cannabinoids is in part responsible for the development of dependence (Budney A, Hughes JR, Moore BA, et al, 2004). Also contributing to withdrawal symptoms is the downregulation of cannabinoid receptors by up to 60% in response to exogenous cannabinoids (Romera J, 1997).

CB1 knockout mice, which have virtually no cannabinoid activity in the central nervous system (CNS), have been used to assess the overall role of our endocannabinoid

⁶ “Unlike cannabis, the medicinal and recreational forms of opium were clearly distinct. Had medical technology been advanced enough at that time to allow cannabinoids to be identified, formulated, and delivered, *the “medical marijuana” movement would probably not have occurred.* As with the opium poppy, prescription cannabinoid medications and crude herbal cannabis would have been used in very different venues.”

system. Without a functioning cannabinoid system due to a genetically induced lack of CB1 receptors, knockout mice demonstrate increased memories (Marsicano G, Wotjak CT, Azad SC, et al, 2002), decreased extinction of aversive memories, failure to self-administer morphine and a significantly increased mortality from a wide variety of causes (Chhatwal JP, Davis M, et al, 2005).

THC and similar molecules in marijuana are able to affect the brain only because they mimic our natural neurotransmitters, flooding receptor sites with stimulation. All the cannabinoid-based areas of the brain are subsequently activated beyond normal physiological levels. This is generally enjoyable for most people, but not without consequences for many. Smoking marijuana essentially reaches into the brain and increases the activity of one specific subset of neuronal activity – like turning up a rheostat that controls the brain’s endocannabinoid activity.

The question of whether there is medicinal value in stimulating, or reducing, activity in cannabinoid-based portions of the brain depends on three things:

1. Specific areas of the brain where cannabinoid chemistry is concentrated and the functions served by these areas;
2. The specific disease and symptoms being treated; and
3. Side effects produced by the treatment - essentially a “medical cost/benefit analysis”.

In addition there are also cannabinoid receptors (CB2) found throughout the body, on nerves, blood cells, on organs, and throughout all stages of embryonic development. The potential for cannabinoid therapeutics must also look at the direct impact of stimulating or antagonizing these receptors as well.

The potential value of any cannabinoid medication depends on modifying physiologic functions that are naturally controlled by our body’s internal cannabinoid system. Given all the functions that are modulated by endocannabinoid chemistry, it is likely that either stimulating or blocking portions of this ubiquitous neuronal subsystem has the potential for relieving the suffering caused by disease. The basic neuroscience of our endocannabinoid system thus provides the American Society of Addiction Medicine’s (ASAM) perspective on the most effective framework for medicalizing cannabinoid therapeutics.

- A. ASAM recognizes that a role has been established for the body’s natural cannabinoid chemistry in regulating many facets of memory, pain, emotions, appetites, motor activity, digestion, attention, higher order executive functions, reward/addiction, the immune system, and reproductive activity.
- B. Multiple illnesses affecting these functions, such as dementia, chronic pain, anxiety, post traumatic shock disorder (PTSD), wasting syndrome, spasticity, diarrhea, irritable bowel syndrome, the nausea/vomiting of chemotherapy and applications still being explored in research labs, are likely to benefit from medications based on our body’s inherent cannabinoid chemistry.

- C. The new cannabinoid medications being developed will range from ones that directly stimulate cannabinoid receptors to ones that prolong the effect of our natural cannabinoid chemistry (similar to how most antidepressants work) to ones that block the receptors in order to reduce the activity of our cannabinoid system. Medications are also being developed that can target only portions of our cannabinoid system without affecting the whole system (for example, reducing pain in the body without affecting the brain) (Ibrahim MM, Deng H, et al, 2003; Quartilho A, Mata HP, et al, 2003).

The exciting discoveries summarized above regarding the endocannabinoid system have stimulated preclinical research:

“This evolution has followed the same principles as the evolution of drug therapy in general. The direction has been away from crude substances of variable composition, stability, and potency, toward the development of progressively more selectively active pure compounds that permit dosage that is more precise and reduced risk of unwanted side effects. (Varvel SA, Wise LE, et al, 2007) ²⁵”

After a delay of over a century, we are now on the cusp of a new era in which many cannabinoid products could become part of the physician’s armamentarium. A number of cannabinoid products are already in development. Several are plant-derived (Sativex®, Cannador®); others are synthetic analogues (Chatwal JP, 2005) or ligands at the CB2 rather than the CB1 receptor (Marsicano G, Wotjak, et al, 2002; Chhatwal JP, David M, Maguschak KA, et al, 2005; Varvel SA, Wise LE, et al, 2007); still others involve new delivery systems for THC. It will take time for this research to evolve into a range of prescription medications. The duration and complexity of this development process is, however, necessary to ensure that a product’s pharmacology and risk/benefit profile are adequately understood and such preparations can meet FDA standards of consistency, safety and efficacy before the product is distributed to patients.

“Medical Marijuana” in the United States

Fifteen states and the District of Columbia have currently enacted laws that permit the use of cannabis for medical use. Some of the laws have been passed by popular vote through the initiative process; state legislative bodies have promulgated a few. The first of these laws passed in 1996. After having failed for several years to obtain a legislative enactment, cannabis advocates took the issue to the people of California through the initiative process.⁷ In most of these states, individual patients and/or their designated

⁷ There were several “medical marijuana” bills introduced into the California legislature, beginning in 1994, e.g., SB 1364, AB 2933, AB 1529, AB 2120, but they either did not pass or were vetoed by the Governor. Coincidentally, these bills followed immediately on the heels of the final disposition of a petition filed by the National Organization for the Reform of Marijuana Laws (NORML), which was filed in 1972 shortly after

caregivers may cultivate cannabis for medical purposes. Some states place limits on the medical conditions that can qualify for legal protection, (e.g., Washington, New Jersey, New Mexico). A few permit the distribution of cannabis by certain types of dispensaries, (e.g., Rhode Island, New Jersey, and New Mexico). Without exception, all of the state laws make physicians the “gatekeepers,” that is, a patient cannot qualify to use cannabis for medical purposes unless a physician has “recommended” the use of cannabis for that person.⁸

As a general rule, these laws do not create new “rights” under state law; rather, they allow a patient (and designated caregivers) to raise his/her personal medical use/cultivation as an affirmative defense if the individual is arrested and charged with violation of certain state criminal laws pertaining to cannabis.⁹

In the first few years following the enactment of the first “medical marijuana” laws, individual patients and their designated caregivers primarily conducted cultivation. Accordingly, the laws had limited application, and research might have been able to provide important data before widespread use occurred. Now, however, the situation has changed dramatically and dispensaries have proliferated at a rapid rate. Many physicians have opened practices based exclusively on issuing cannabis recommendations (see further discussion below). As a result, thousands of persons, with diverse medical conditions (and/or non-medical reasons), are using cannabis, despite the fact that research has not kept (and cannot keep) pace with such rapidly expanding use for the myriad of conditions that cannabis is reported to treat.

Reports from Expert Bodies

The early “medical marijuana” initiatives garnered widespread media coverage, public interest, and controversy. As a result, a number of expert bodies examined the data relating to the therapeutic potential of cannabis and cannabinoids.

National Institutes of Health

In 1997, the National Institutes of Health (NIH) hosted a workshop at which medical experts discussed the potential medical uses of smoked cannabis. This group reviewed the

Congress placed marijuana in Schedule I of the Controlled Substances Act in 1970. NORML initially sought to remove marijuana entirely from the CSA or, alternatively, place marijuana in Schedule V, *NORML v. Ingersoll*, 497 F.2d 654 (D.C. Cir. 1974), but agreed that US treaty obligations did not permit that course of action for cannabis and cannabis resin. *NORML v. DEA*, 559 F.2d 735 (D.C. Cir. 1977) fn. 43. Subsequently, NORML sought to move marijuana to Schedule II. That petition was denied by DEA and, after 22 years of litigation, the DEA denial was upheld by the federal courts. *ACT v. DEA*, 15 F. 3d 1131 (D.C. Cir. 1994).

⁸ Since 1) no marijuana-based product has been approved by the FDA, and 2) marijuana is a Schedule I substance under federal law, a physician cannot prescribe, nor can a pharmacist dispense, such a product. Instead, physicians may “recommend” the medical use of cannabis to a specific patient. In Michigan, for example, a physician must certify that the patient is likely to receive medical benefit from the use of cannabis.

⁹ For example, the California Supreme Court has ruled that California’s laws confer only a limited immunity which “operates by decriminalizing conduct that otherwise would be criminal.” *People v. Mower* 28 Cal.4th 457, 472; 122 Cal.Rptr.2d 326 (2002).

literature and conducted hearings relating to the therapeutic uses of cannabis to treat conditions including: analgesia, neurological and movement disorders, nausea and vomiting associated with cancer chemotherapy, glaucoma, and appetite stimulation/cachexia (National Institutes of Health, 1997). For a number of these conditions, the group concluded that there would only be limited value in pursuing further research into smoked cannabis, because effective treatments were already available. However, they did recommend new controlled studies on smoked cannabis since current research did not provide definitive answers on its risk/benefit profile. The consensus was that in these research studies, smoked cannabis must meet the same standards as other medications in terms of effectiveness and safety.

Given that delta-9-tetrahydrocannabinol (dronabinol, the generic and Marinol®) is marketed to treat nausea and vomiting associated with chemotherapy and appetite stimulation in AIDS patients, the expert group suggested that the effects of smoked cannabis on these conditions be evaluated and studied to draw comparisons between smoked cannabis and synthetic THC.

Experts also specifically suggested that NIH use its resources to develop a smoke-free inhaled delivery system for cannabis or THC to eliminate the negative health effects of smoking in research trials.

Institute of Medicine Report

In 1997, the White House Office of National Drug Control Policy (ONDCP) requested that the Institute of Medicine (IOM) conduct a review of the scientific evidence regarding the potential health benefits and risks of cannabis and its component cannabinoids. In 1999, the IOM issued the report *Cannabis and Medicine: Assessing the Science Base* that became the foundation of study into “medical marijuana” (Joy JE, Watson, Jr. SJ & Benson JA, 1999). IOM made a series of recommendations pertaining to the use of cannabis in medical treatment that revolve around the need for more research and evaluation.

In its report, IOM made the following recommendations (Joy JE, Watson, Jr. SJ & Benson JA, 1999):

- *Recommendation 1:* Research should continue into the physiological effects of synthetic and plant-derived cannabinoids and the natural function of cannabinoids found in the body. Because different cannabinoids appear to have different effects, cannabinoid research should include, but not be restricted to, effects attributable to THC alone.
- *Recommendation 2:* Clinical trials of cannabinoid drugs for symptom management should be conducted with the goal of developing rapid-onset, reliable, and safe delivery systems.

- *Recommendation 3:* Psychological effects of cannabinoids such as anxiety reduction and sedation, which can influence medical benefits, should be evaluated in clinical trials.
- *Recommendation 4:* Studies to define the individual health risks of smoking marijuana should be conducted, particularly among populations in which cannabis use is prevalent.
- *Recommendation 5:* Clinical trials of marijuana use for medical purposes should be conducted under the following limited circumstances: trials should involve only short-term marijuana use (less than six months), should be conducted in patients with conditions for which there is reasonable expectation of efficacy, should be approved by institutional review boards, and should collect data about efficacy.
- *Recommendation 6:* Short-term use of smoked marijuana (less than six months) for patients with debilitating symptoms (such as intractable pain or vomiting) must meet the following conditions:
 - failure of all approved medications to provide relief has been documented,
 - the symptoms can reasonably be expected to be relieved by rapid-onset cannabinoid drugs,
 - such treatment is administered under medical supervision in a manner that allows for assessment of treatment effectiveness, and
 - Involves an oversight strategy comparable to an institutional review board process that could provide guidance within 24 hours of a submission by a physician to provide marijuana to a patient for a specified use.

The IOM clearly stated that the purpose of short-term *studies* with smoked cannabis would serve, at best, as preliminary support for the development of cannabis-based or cannabinoid modern medications. “The goal of clinical trials of smoked cannabis **would not be to develop cannabis as a licensed drug, but rather to serve as a first step toward the possible development of nonsmoked rapid-onset cannabinoid delivery systems** (emphasis added)” (Joy JE, Watson, Jr. SJ, & Benson JA, 1999). Specifically, IOM stressed that there is “little future in smoked marijuana.”

The IOM acknowledged that, until a nonsmoked rapid-onset cannabinoid drug delivery system became available, there was “no clear alternative” for people suffering from chronic conditions that might be relieved by smoked cannabis. The IOM suggested that one “possible approach” would be to treat patients as *n*-of-1 clinical trials, in which “patients are fully informed of their status as experimental subjects using a harmful drug delivery system. It recommended that their condition is closely monitored and documented under medical supervision, thereby increasing the knowledge base of the risks and benefits of marijuana use under such conditions.” Under the current system of cannabis distribution by dispensaries, with limited oversight by physicians, these patient protections and data-collection functions are wholly absent.

Professional Organizations

American Medical Association

In both 1997(Council on Scientific Affairs Report 10, 1997) and 2001, the AMA issued reports on the scientific data relevant to the medical utility of cannabis (Council on Scientific Affairs Report 6, 2001). In November 2009, the AMA's Council on Science and Public Health (CSAPH) revised several of its policy statements on cannabis. The organization retained its previous recommendations for: 1) further adequate and well-controlled studies into cannabis and cannabinoids; 2) urging the NIH to facilitate grants applications for, and the conduct, of such trials; and 3) permitting free and unfettered exchange of information on treatment alternatives between physicians and patients, which should not subject either party to criminal sanctions.

In the Executive Summary, CSAPH noted that short-term clinical trials suggest that smoked cannabis has efficacy in certain medical conditions (a conclusion presumably further analyzed in the body of the report, which has not yet been published). In its Recommendation, AMA urged that cannabis's status as a schedule I drug be "reviewed." The purpose of such review would be to ascertain whether rescheduling could facilitate the conduct of clinical research and the "development of cannabinoid-based medicines and alternate delivery methods." AMA emphasized that this recommendation should **not** be viewed as an "endorsement of state-based medical cannabis programs, legalization of marijuana or that scientific evidence on the therapeutic use of cannabis meets the current standard for a prescription drug product" (Council on Science and Public Health Report 3, 2009). The report stressed "the patchwork of state-based systems that have been established for 'medical marijuana' is woefully inadequate in establishing even rudimentary safeguards that normally would be applied to the appropriate clinical use of psychoactive substances. The future of cannabinoid-based medicine lies in the rapidly evolving field of botanical drug substance¹⁰ development, as well as the design of molecules that target various aspects of the endocannabinoid system."¹¹

American College of Physicians

In 2008, the American College of Physicians' (ACP) Health and Public Policy Committee (HPPC) composed a position paper on the medical uses of cannabis that followed the lead set forth by IOM. Their positions include (American College of Physicians, 2008):

¹⁰ For the meaning of "botanical drug substance," see discussion of the FDA Botanical Guidance, below.

¹¹ At its 2010 Interim Meeting, the AMA House of Delegates voted to amend current policy by urging the creation of a "special" schedule for cannabis (rather than moving cannabis to Schedule II), for the purpose of facilitating clinical research. <http://www.ama-assn.org/assets/meeting/2010i/i-10-annotated-k.pdf>.

- *Position 1:* ACP supports programs and funding for rigorous scientific evaluation of the potential therapeutic benefits of medical marijuana and the publication of such findings.
 - *Position 1a:* ACP supports increased research for conditions where the efficacy of marijuana has been established to determine optimal dosage and route of delivery.
 - *Position 1b:* Medical marijuana research should not only focus on determining drug efficacy and safety but also on determining efficacy in comparison with other available treatments.
- *Position 2:* ACP encourages the use of nonsmoked forms of THC that have proven therapeutic value.
- *Position 3:* ACP supports the current process for obtaining federal research-grade cannabis.
- *Position 4 (as amended):*¹² ACP urges an evidence-based review of marijuana's status as a Schedule I controlled substance to determine whether it should be reclassified to a different schedule. This review should consider the scientific findings regarding marijuana's safety and efficacy in some clinical conditions as well as evidence on the health risks associated with marijuana consumption, particularly in its smoked form.
- *Position 5:* ACP strongly supports exemption from federal criminal prosecution; civil liability; or professional sanctioning, such as loss of licensure or credentialing, for physicians who prescribe or dispense medical marijuana in accordance with state law. Similarly, ACP strongly urges protection from criminal or civil penalties for patients who use medical marijuana as permitted under state laws.

In an addendum to the position paper, ACP addressed concerns raised that it was promoting smoked marijuana as medicine. In this response, ACP states that it “has not advocated for the long-term use of smoked marijuana; rather, the paper explicitly discusses the harm associated with chronic use of smoked marijuana and stresses the need for development of nonsmoked forms of cannabinoid delivery systems strictly for therapeutic purposes supported by the evidence” (American College of Physicians, 2008). ACP also stressed that it “shares the concerns expressed by some about state ballot initiatives or legislation that can undermine the federal regulatory structure for assessing the safety and efficacy of new drugs before such drugs can be approved for therapeutic use.”

American Nurses Association

In December 2008, the American Nurses Association (ANA) published the following statement on marijuana:

¹² ACP's original recommendation seemed to suggest that it was calling for the reclassification of cannabis into a “more appropriate” schedule. After receiving extensive commentary on this point, ACP clarified its position to state that the evidence merits a review of cannabis's Schedule I classification, but any change to that classification should occur only if the review established that the evidence was sufficient to justify the change.

The American Nurses Association supports (American Nurses Association, 2008):

- The education of registered nurses and other healthcare practitioners regarding appropriate evidence-based therapeutic use of marijuana including those non-smoked forms of delta-9-tetrahydrocannabinol (THC) that have proven to be therapeutically efficacious.
- Protection from criminal or civil penalties for patients using medical marijuana as permitted under state laws.
- Exemption from criminal prosecution; civil liability; or professional sanctioning, such as loss of licensure or credentialing, for healthcare practitioners who prescribe, dispense or administer medical marijuana in accordance with state law.
- Reclassification of marijuana's status from a Schedule I controlled substance into a less restrictive category.
- Confirmation of the therapeutic efficacy of medical marijuana.

The Federal Position

The Controlled Substances Act (CSA)

All controlled substances are assigned to one of five schedules under the Controlled Substances Act (CSA), depending on their medical usefulness and their potential for abuse.¹³ Cannabis/marijuana, ibogaine, mescaline, and peyote are botanical hallucinogens listed in Schedule I. Schedule I substances are those said to have:

- A high potential for abuse;
- No currently accepted medical use in treatment in the US¹⁴; and

¹³ The following factors, often referred to as the “eight factor analysis,” determine the schedule to which a substance is assigned:

1. Its actual or relative potential for abuse
2. Scientific evidence of its pharmacological effects
3. The state of current scientific knowledge regarding the drug
4. Its history and current pattern of abuse
5. The scope, duration, and significance of abuse
6. What, if any, risk there is to public health
7. Its psychic or physiological dependence liability
8. Whether the substance is an immediate precursor of a substance already under control

21 U.S.C. sec. 811.

¹⁴ In a proceeding which seeks to move a drug from Schedule I to Schedule II, the DEA will examine the following factors in determining whether the drug has a “currently accepted medical use”:

1. The drug's chemistry must be known and reproducible;
2. There must be adequate safety studies;
3. There must be adequate and well-controlled studies proving efficacy;
4. The drug must be accepted by qualified experts; and
5. The scientific evidence must be widely available.

See *Alliance for Cannabis Therapeutics v. DEA*, 15 F.3d 1131 (D.C.Cir. 1994). ¹⁴ See 57 F.R. 10499,10506. According to the DEA, a failure to meet any of the factors precludes a drug from having a currently accepted medical use. 57 Fed.Reg. at 10507. Only a product going through the FDA process could meet all these criteria.

- A lack of accepted safety for use under medical supervision (21 USC sec. 812(c) (Schedule I (c))).

Substances in Schedule II have:

- A high potential for abuse;
- A currently accepted use in treatment in the US or a currently accepted medical use with severe restrictions; and
- Abuse of the substance may lead to severe psychological or physiological dependence (21 USC sec. 812(c) (Schedule II (a))).¹⁵

Opium, poppy straw, concentrate of poppy straw, and coca leaves are botanical materials listed in Schedule II. At the time the CSA was enacted in 1970, modern prescription medications derived from these botanical starting materials had already been approved for marketing by the FDA.

Substances in Schedule I may only be used in research studies by investigators who 1) have protocols that have been approved by the FDA and 2) have received research registrations from the Drug Enforcement Administration (DEA). Therefore, all possession, cultivation, distribution, etc., of cannabis, even if permitted under various state “medical marijuana” laws, continues to be illegal under federal law. A physician, however, has a First Amendment right under the federal Constitution to provide a patient with *bona fide* medical advice, which may include recommending the use of cannabis for medical purposes, so long as the physician does nothing affirmatively to aid or abet a patient in obtaining cannabis (*Conant v. Walters*, 2002).¹⁶

Federal Departments and Agencies

On a number of occasions since 1996, the Drug Enforcement Administration has closed cannabis dispensaries (*US v. Oakland Cannabis Buyers Cooperative*, 2001) In October 2009, the federal Department of Justice (DOJ) issued guidelines to prosecutors (U.S. Department of Justice, 2009) that, despite the publicity these guidelines received suggesting that the Obama administration was permissive towards “medical marijuana,” are actually quite narrow. At the outset, the provisions stress that marijuana is a “dangerous drug.” They confirm the (already-existing) policy that federal prosecution priorities should be focused on significant¹⁷ traffickers, not small-scale individual users. Hence, U.S. attorneys are advised not to prosecute **patients** “with cancer or other serious illnesses” who are using cannabis as part of a “recommended treatment regimen consistent

¹⁵ 21 USC sec. 812(c) (Schedule II (a)). Substances in Schedules III-V have decreasing levels of abuse potential and are subject to lesser degrees of control.

¹⁶ For a more detailed description of this issue, see California Medical Association, CMA ON CALL, document #1315, The Compassionate Use Act of 1996: The Medical Marijuana Initiative (Jan. 2010) http://www.cmanet.org/bookstore/freeoncall2.cfm/CMAOnCall1315.pdf?call_number=1315&CFID=745764&CFTOKEN=27566287 (accessed Feb. 18, 2010).

¹⁷ Note: this term is broader than “major.”

with state law” or **caregivers** in “clear and unambiguous” compliance with state law who provide cannabis to such patients (California Attorney General, 2008). “Commercial enterprises,” however, and those entities whose “nonprofit” medical marijuana distribution activities are merely a pretext for for-profit endeavors, **are** subject to prosecution.¹⁸

Subsequent to the issuance of these DOJ guidelines, the DEA issued a statement:

These guidelines do not legalize marijuana. It is not the practice or policy of DEA to target individuals with serious medical conditions who comply with state laws authorizing the use of marijuana for medical purposes. Consistent with the DOJ guidelines, we will continue to identify and investigate any criminal organization or individual who unlawfully grows, markets, or distributes marijuana or other dangerous drugs (Drug Enforcement Administration, 2009).

Similarly, the Director of ONDCP stressed:

The Department of Justice's guidelines strike a balance between efficient use of limited law enforcement resources, and a tough stance against those whose violations of state law jeopardize public health and safety...Enforcing the law against those who unlawfully market and sell marijuana for profit will continue to be an enforcement priority for the U.S. government (Office of National Drug Control Policy, 2009).

The Department of Transportation (DOT) also emphasized that the guidelines would not impact the DOT's drug testing program: “The Department of Transportation's Drug and Alcohol Testing Regulation – 49 CFR Part 40, at 40.151(e) – does not authorize ‘medical marijuana’ under a state law to be a valid medical explanation for a transportation employee's positive drug test result” (DOT, Medical Marijuana Guidelines, 2009)

In light of these statements, the current position of the federal government is uncertain. Nevertheless, largely because of exaggerated media reports, the Obama administration is viewed as lenient toward “medical marijuana.” This has been followed by proliferation of dispensaries which results in virtually unrestricted distribution of cannabis.

Modern Medications and the FDA Approval Process

In earlier days in Western medicine, herbs and other botanical products were common treatment options and remain so in many developing countries. By the end of the 20th century, however, these crude botanical mixtures and preparations had been replaced

¹⁸ The guidelines also allow prosecution of those distribution activities that **may be consistent** with state law (in case a state decides to pass very liberal legislation), if necessary to “serve important federal interests.”

by “modern” medications which were characterized by standardized, purified products whose active ingredients (AIs) were often of synthetic origin.

Folk Remedies	Modern Medicines
Use plant products whose composition is uncertain and unregulated.	Use highly purified or defined medications, often comprising synthetic chemicals.
Treat poorly defined illnesses or symptom with unknown basis (e.g. cough from TB, influenza, or etc.).	Treat specific illnesses.
Are based on little understanding of the pathophysiology of the disorders being treated.	Elucidate the nature of the illnesses.
Are based on little understanding of the role of “medicine” in the therapy.	Use medicines that have a recognized effect on pathological processes; often understand the mechanism of action.
Are used in inconsistent and hard-to-quantify amounts.	Are administered in controlled doses; delivery system provides predictable dose over defined period of time.

Even those medications that once originated in botanical material, e.g., digitalis, were ultimately comprised of synthetic AIs. Dosage forms and delivery systems were carefully tested to deliver a discrete, reproducible dose. The ever-increasing sophistication and rigor of the FDA approval process contributed to this trend.

That approval process has been developed over the past century to protect patient safety and welfare. It promotes the quality, safety, and efficacy of medications, and is supported by all major medical/health care organizations. Extensive preclinical and clinical testing -- the results of which are published in peer-reviewed journals -- provides a robust body of risk-benefit and pharmacological data, on which physicians depend in order to make informed prescribing decisions. The registration and inspection procedures ensure that the manufacturing process is conducted in accordance with validated quality control tools and measures. Manufacturers’ promotional activities are limited to those claims supported by the medication’s label. Medications are prescribed and dispensed under the close supervision of licensed health care providers, primarily physicians and pharmacists.

In addition, the FDA has recently indicated that medications, both with and without abuse potential, must develop special plans to identify, evaluate, and mitigate the medication’s risks (Department of Health and Human Services, Food and Drug Administration, 2010). Such plans must include, where relevant, the risks of abuse and diversion (Department of Health and Human Services, Food and Drug Administration, 2009).

By contrast, herbal products and other dietary supplements are subject to a far lesser degree of supervision. Composition and quality are uncertain; clinical data on safety and efficacy are limited; and physicians generally do not feel qualified to opine about specific products' risks and benefits for particular medical conditions (Dietary Supplement Health and Education Act of 1994). Various scholars have suggested that the FDA should more stringently regulate many dietary supplements (Cohen PJ, 2005). Generally, dietary supplements are ingested orally and lack abuse potential.¹⁹

Despite the reduced level of regulatory scrutiny and quality assurance, public interest in botanically derived treatments continues to rise. Acknowledging such interest, and the fact that technology has improved significantly in recent decades, the FDA issued a 2004 guidance document that sets forth the principles to which pharmaceutical manufacturers must adhere when developing prescription medications derived from complex botanical material (Food and Drug Administration, 2004). The Guidance permits some leniency in the biochemical characterization of a prospective botanical agent during the early stages of research; however, at the point of advanced clinical research (Phase III), or New Drug Application (NDA), a medication must meet all standards for a new chemical entity (NCE).

The document identifies three stages of development for a botanically derived medication: 1) Botanical Raw Material (BRM), 2) Botanical Drug Substance (BDS) and 3) Botanical Drug Product (BDP). **BRM** is the fresh or processed (e.g., cleaned, frozen, dried, or sliced) part of a single species of plant or a fresh or processed alga or macroscopic fungus. **BDS** is prepared from botanical raw materials by one or more of the following processes: pulverization, decoction, expression, aqueous extraction, ethanolic extraction, or other similar process. It may be available in a variety of physical forms, such as powder, paste, concentrated liquid, juice, gum, syrup, or oil. **BDP** is a botanical product that is intended for use as a drug, i.e., a finished drug product that is prepared from a botanical drug substance. Botanical drug products are available in a variety of dosage forms, such as solutions (e.g., teas), powders, tablets, capsules, elixirs, and topicals.

In 2006, the FDA rejected the contention that smoked herbal cannabis "is a safe and effective medication." FDA stated that:

A past evaluation by several Department of Health and Human Services (DHHS) agencies, including the Food and Drug Administration (FDA), Substance Abuse and Mental Health Services Administration (SAMHSA) and National Institute for Drug Abuse (NIDA), concluded that no sound scientific studies supported medical use of marijuana for treatment in the United States, and no animal or human data supported the safety or efficacy of marijuana for general medical use.... If a drug product is to be marketed, disciplined, systematic, scientifically conducted trials are the best means to

¹⁹ On December 30, 2003, the FDA announced its intention to ban the marketing of ephedra (FDA, 2004).

obtain data to ensure that drug is safe and effective when used as indicated. Efforts that seek to bypass the FDA drug approval process would not serve the interests of public health because they might expose patients to unsafe and ineffective drug products. FDA has not approved smoked marijuana for any condition or disease indication (Food and Drug Administration, 2006).

This statement does not imply that FDA will reject all cannabis-based medications. Indeed, one cannabis-derived medication, Sativex®, is entering into Phase III trials in accordance with the Guidance (GW Pharmaceuticals, 2006).

“Medical Marijuana” and the Modern Medication Model

The status of “medical marijuana” contrasts sharply with the critically important aspects of the modern medication model. First, crude herbal cannabis is not a homogeneous material; the term “medical marijuana” therefore does not refer to a single, consistent substance or entity. The composition of herbal material, including its THC content, varies widely depending on the strain, cultivation, storage, and harvesting practices, etc. The opium poppy can similarly vary in composition. Opium can be rich in morphine, thebaine, or oripavine (Drug Enforcement Administration, 2008). The methods of herbal cannabis administration—smoked/vaporized, baked goods, teas, infused honeys, elixirs, candies, etc.—also do not ensure that a patient receives an identifiable, standardized, and hence reproducible, dose. Patients therefore cannot be certain that they will experience the same degree of benefit or extent of side effects from time to time. Patients, particularly those unfamiliar with cannabis, may be unwittingly dosed excessively, and incur frightening or severely unpleasant effects. For example, in a media report, one patient with advanced cancer ingested 1/8 teaspoon of cannabis-infused honey that she had purchased at a dispensary. “After a few hours, she was hallucinating, too dizzy and confused to dress herself for a doctor's appointment. Then came vomiting far worse than her stomach upset before she took the drug” (Mathews AW, 2010).

Second, quality control mechanisms are generally absent. As a result, cannabis products may be contaminated with microbes.²⁰ Certain pathogens, such as aflatoxins, are not destroyed by heat (as in smoking or vaporizing) and are increasingly being recognized as an “underestimated source of neurological toxicity or infections such as aspergillosis.” Individuals who are using anti-inflammatory steroids or have compromised immune systems are especially vulnerable to such infections (Hazekamp A, 2006). Heavy metals and pesticides may also be present. Cannabis samples recently tested from dispensaries in

²⁰ A number of bacteria that are pathogenic to humans have been found on cannabis, including: *Salmonella muenchen*, *Klebsiella pneumoniae*, *Euterobacter cloacae*, *E. agglomerans*, *Streptococcus* (Group D), *Thermoactinomyces candidus*, *T. vulgaris*, *Micropolyspora faeni*, *Aspergillus fumigatus*, *A. niger*, *A. flavus*, *A. tamarri*, *A. sulphureus*, *A. repens*, *Penicillium chrysogenum*, *P. italicum*, *Rhizopus stolonifer*, *Alternaria alternata*, *Curvularia lunata*, and *Histoplasma capsulatum*. See generally, McPartland JM. “Contaminants and adulterants in herbal Cannabis,” in *Cannabis and Cannabinoids—Pharmacology, Toxicology and Therapeutic Potential* (Grotenhermen F & Russo E eds.) (Haworth Press New York) 2002.

Los Angeles contained pesticide levels 170 times greater than that permitted for herbal products (*People v. Hemp Factory V*, 2009).²¹ The manufacturers of these products have essentially no accountability, and the FDA does not inspect their manufacturing facilities. Patients injured by harmful products have no legal recourse.

Third, distribution of cannabis products does not take place within the monitored and regulated channels of supply for pharmaceuticals, but rather through dispensaries. These products are not labeled with content information, or with warnings and instructions for proper use, despite the fact that this is a requirement for all medical products under both state and federal law (California Sherman Food, Drug, and Cosmetic Act). Dispensary personnel who are not licensed medical practitioners offer medical advice concerning the efficacy or appropriateness of various products.

Finally, appropriate physician supervision is virtually unavailable. As indicated above, all state “medical marijuana” laws place physicians in an untenable position—on the one hand, being appointed the gatekeepers of a patient’s access to cannabis; on the other, having no access to the information necessary to provide meaningful advice and supervision. Reliable data—essential to a physician’s ability to assess a treatment option--are not being generated by the existing system of distribution and use. There is no mechanism for collecting data reflecting efficacy or adverse events; therefore, the medical community is precluded from knowing whether specific medical conditions are being improved, to what extent, and in which percentage or subgroup of patients, nor whether there are contraindications, drug-drug interactions, etc.

It is not surprising that in sessions at national medical conferences describing “New Therapeutic Developments,” herbal cannabis is almost never mentioned, despite its prominence in the media. Without a foundation of rigorous data, developed in clinical trials of proper length and design, and published in peer-reviewed journals, no cannabis product can ever gain entrance into the physician’s armamentarium and thereby become available to patients as a legitimate option among various treatment choices. Therefore, if it continues in its present form, the current cannabis distribution system has the unfortunate--even ironic--effect of **preventing** the vast majority of patients, who wish to be able to obtain meaningful guidance, advice, and supervision from their treating physicians, from obtaining access to cannabis-based medications.

Physicians should carefully consider their ethical and professional responsibilities before issuing a cannabis recommendation to a patient. A physician should not advise a patient to seek a treatment option about which the physician has inadequate information regarding composition, dose, side effects, or appropriate therapeutic targets and patient populations. State medical boards have indicated that physicians who discuss cannabis with a patient must adhere to the relevant standard of care and follow the basic

²¹ In 2005, a cannabis advocate died from a neurological condition believed to have resulted from handling cannabis contaminated by pesticides, which was being distributed through cannabis dispensaries. (Gardner F, 2005.)

professional tenets of good patient care: a physical examination, medical history, review of past medical treatments, development of a treatment plan, follow up and continuing oversight (Medical Board of California, 2004). Failure to do so may result in a finding of unprofessional conduct and significant sanctions, including license suspension or revocation (Medical Board of California, 2009). A physician's professional liability coverage may also not extend to harm resulting from a patient's use of cannabis upon the physicians' recommendation (Educating Voices, 2003).

This lack of effective physician oversight poses one of the greatest dangers to patients in the "system" by which cannabis is made available for ostensible medical use. The impact of this absence of professional monitoring is exacerbated by the fact that the potency of cannabis herbal material and cannabis products has risen significantly over the last few decades.²² Such increased potency may heighten the risk of addiction (National Center on Addiction and Substance Abuse, 2008). This is particularly problematic in light of the fact that, increasingly, adolescents are obtaining "cards" which enable them to purchase and use cannabis with legal impunity. A number of adolescent psychiatrists have expressed concern at the rapidly increasing number of young patients who enter treatment for cannabis dependence but who have "cards" facilitating their continued use (Thurstone C, 2010). Furthermore, several studies have revealed that a very large percentage of individuals have sought cannabis cards in order to treat anxiety or depression, rather than nausea/vomiting from cancer chemotherapy, HIV, or pain and that almost all of those applicants initiated cannabis or other substance use during adolescence (Gardner F, 2006; O'Connell TJ & Bou-Matar CB, 2007). Such individuals require close physicians supervision to ensure that they are not developing or maintaining cannabis dependence, rather than attempting to alleviate a medical condition. Finally, individuals who smoke or vaporize high-potency cannabis are likely to experience intoxication, since inhalation rapidly raises plasma and brain levels of THC (Huestis MA, Henningfield JE, Cone EJ, 1002; Huestis MA, 2007). This may prevent both physicians and patients from identifying disease progression and hinder patients from obtaining appropriate treatment (Medical Board of California, 2004)²³.

What Has Been Tried in Other Countries?

Both Canada and the Netherlands have government-supervised programs for distributing cannabis for medical use. In Canada, court rulings mandated that the government establish a procedure through which patients could qualify to cultivate and possess cannabis for medical purposes. Subsequently, the government was required itself

²² The University of Mississippi has been analyzing the THC levels of seized cannabis for over 30 years. In that period, those levels (for domestic cannabis seizures) have increased from an average of 1.7% to 13%. See University of Mississippi Marijuana Potency Monitoring Project, www.whitehousedrugpolicy.gov/publications/pdf/mpmp_report_104.pdf.

²³ "The physician should determine that medical marijuana use is not masking an acute or treatable progressive condition, or that such use will lead to a worsening of the patient's condition."

to establish a regulated source of supply (Health Canada, Marijuana Medical Access Regulations, 2001).

Physicians have voiced serious concerns about this system. The Canadian Medical Association (CMA) stated:

Physicians are not in a position to counsel patients regarding the use of marijuana. Specifically, they are unable to provide thorough and necessary information regarding such issues as proper dosage, marijuana's interaction with other drugs or its impact on other pre-existing medical conditions... Lack of information on the indications, risks and benefits of medicinal marijuana hinders [a physician's] ability to inform properly patients and has the potential to threaten the patient-physician relationship. **CMA does not support physicians controlling access to substances for which routine pre-market regulatory review of safety, purity and efficacy, as required for current prescription drugs, has not occurred. (Canadian Medical Association, 2001)**

Physicians for a Smoke-Free Canada concurred:

First, since marijuana has not been thoroughly tested as a medicine, most physicians are familiar neither with its potential benefits (if any), nor with the dosage required to achieve those benefits. Second, when a patient is requesting smoked marijuana, the risks associated with smoking, coupled with the lack of clinical knowledge about specific benefits, make any accurate approximation of the risk to benefit ratio of treatment impossible (Physicians for a Smoke-Free Canada, 2002).

The Canadian Medical Protective Association voiced the same objections:

Given the fact that many physicians would not have the necessary knowledge about the effectiveness, risks or benefits of marijuana, we believe it is unreasonable to make physicians [the] gatekeepers in this process (Wharry S, 2002; Canadian Medical Protective Association, 2008).

In 2005, the Marijuana Medical Access Regulations (MMAR) regulations were revised to remove the requirement that physicians recommend a specific daily dose, form and route of administration. However, physicians are still required to indicate, in their medical declaration, the daily amount, form, and route of administration that the applicant intends to use. Although physicians no longer must state that the benefits of cannabis outweigh the risks, applicants must still declare that they have discussed the risks with the physician who signs the medical declaration. CMPA notes that the amended Regulations "represent an improvement," but "do not address all the CMA's and CMPA's previously expressed concerns."²⁴

²⁴ CMPA advises their members to obtain a release from liability from a patient for whom the physician has approved the use of cannabis.

Under the Health Canada program, cultivation is required to be conducted under Good Manufacturing Practices. Furthermore, in order to ensure that the microbial content remains at acceptable levels, the cannabis is irradiated before it is provided to patients (Health Canada, Product Information Sheet, 2008; Hazekamp A, 2006).²⁵ The dried cannabis has a THC level of $12.5 \pm 2\%$. Health Canada provides information to both physicians and to patients concerning the use of cannabis, including potential side effects (Health Canada, Product Information Sheet, 2008). Nevertheless, the system is foundering. An estimated 400,000-1,000,000 Canadians use cannabis for “self-identified” medical purposes, but approximately 4,029 persons have government authorizations to possess cannabis. Fewer than 20% of those access cannabis from Health Canada.²⁶ Detractors of the program claim, among other things, that the government authorization process is too lengthy and cumbersome; relatively few physicians will sign the necessary form; and the quality of the cannabis is not satisfactory (although it is on average 12% THC). They further claim that patients wish to select different strains for various medical conditions; and dosing limits confine patients to 5 grams a day, unless a physician is willing to explain a patient’s need for a higher daily intake (Belle-Isle L, Hathaway A, 2007; Canwest News Service, 2010). As a result, patients obtain their cannabis—and their information about the medical uses of cannabis and cannabis products-- from different “compassion clubs.”

In addition to criticisms from health care providers and patients, Canada has also incurred a reprimand from the International Narcotics Control Board (INCB), which believes that Canada is operating outside of its obligations under international treaties. In the aftermath of the INCB’s statement, governmental authorities have undertaken to review the Canadian program (Edwards S, 2010).

The situation in Canada demonstrates that even government-supervised cannabis cultivation and distribution programs are **not** sufficient to enable cannabis to become a legitimate medication that physicians are (or should be) comfortable prescribing. In order for cannabis-based medications to become broadly available to patients **through their treating physicians**, those medications must go through the conventional domestic medication approval processes.

Existing Research: What Do We Know and What Do We Still Need to Determine?

Issues for Additional Research

Considerable analytical and preclinical research and clinical investigations have been conducted with cannabinoid agonists, antagonists, and other compounds that affect

²⁵ The Netherlands has a similar program. That cannabis, too, is irradiated to reduce microbial levels.

²⁶ As of June 2009, 4029 persons were authorized to possess cannabis, and 2841 persons were authorized to cultivate cannabis for medical purposes (2360 of which hold a personal use production license; 481 hold a designated-person production license). However, only 798 are currently obtaining cannabis from Health Canada; 891 have obtained seeds for cultivation; and 188 persons have received both. <http://www.hc-sc.gc.ca/dhp-mps/marihuana/stat/2009/june-juin-eng.php>

the cannabinoid receptor system. In examining such research, it is essential to avoid drawing excessively broad conclusions about the benefits and risks of smoked cannabis in humans from the results of published studies involving other preparations and other research settings.²⁷ For example, preclinical research studying synthetic THC, *in vitro* or *in vivo*, may offer intriguing possibilities for future clinical research, but it is certainly not determinative of the benefit/adverse event profile of smoked cannabis (or THC) in humans. Evidence that THC can inhibit malignant tumor growth in rodents does not mean, or even suggest, that smoking cannabis can prevent or cure cancer (Guzman M, 2003). Such studies provide at best a foundation for pursuing small pilot studies of a cannabinoid formulation in humans (Guzman M, et al, 2006). The effects of pure oral THC may differ significantly from that of smoked cannabis, because of both the formulation and the very different mode of delivery. Even different non-smoked cannabinoid formulations may exert notably disparate effects, depending on the cannabinoid composition and the method of administration. Finally, the effects of cannabis or cannabinoids in experimental pain models may not indicate how patients with chronic pain conditions would respond: “The respective mechanisms underlying the whole variety of chronic pain syndromes may considerably differ from acute nociception” (Hazekamp A & Grotenhermen F, 2010).

Current research reports and reviews rarely acknowledge that the composition and cannabinoid profile of modern herbal cannabis may be very different from that which existed centuries or even decades ago. Although discussions of cannabis commonly begin with the claim that “cannabis has been used therapeutically for hundreds, if not thousands, of years,” these research reports or reviews fail to point out that the cannabis plant has been significantly modified over that period through breeding techniques and modern cultivation practices. The widespread use of sinsemilla (the bud of the unfertilized female plant), coupled with sophisticated indoor cultivation projects, have in many cases increased THC levels considerably above those present in cannabis even 40 years ago.

In addition, selective breeding techniques have resulted in cannabis plants almost totally devoid of cannabidiol (CBD), a non-psychoactive cannabinoid with important therapeutic potential. In the past, a harvest of wild cannabis would have often been composed of approximately half THC and half CBD (of its major cannabinoids) (Potter DJ, Clark P, Brown MB, 2008). In animal models and some human studies, CBD has been shown to have analgesic, anti-psychotic, anticonvulsant, neuroprotective properties (Mechoulam R, Maximilian P, Murillo-Rodriguez E, et al, 1974; Russo E, Guy GW, 2006; Pertwee RG, 2004). There is also evidence that CBD may mitigate some of the negative effects of THC, such as psychoactivity (Karniol IG, Carlini EA, 1973; Karniol IG, Shirakawa I, Kasinski N, et al, 1974). Numerous reports have confirmed that CBD is almost entirely absent from modern black market cannabis (Potter DJ, Clark P, Brown MB, 2008). Because of these trends, modern herbal cannabis available in dispensaries may have very different effects than those reported centuries or even decades ago. The absence of CBD, coupled with higher levels of THC, may have adverse effects on patients, particularly in chronic use

²⁷ Case studies, surveys, and non-controlled studies are beyond the scope of this report and will not be examined.

(DiForti M, et al, 2009; Sterling E, 2010). More research is needed to elucidate the effects of different cannabinoid (especially THC: CBD) ratios.

Dose-response relationships also require further research. Cannabinoids are known to exhibit biphasic effects, i.e., a lower dose may relieve a symptom but a higher dose may exacerbate it (Health Canada, Information for Health Care Professionals, 2003). A clinical study of smoked cannabis in experimental pain illustrates this well (Wallace M, et al, 2007). Furthermore, since patients vary widely in their response to cannabinoids, inadequate dosing or titration, e.g., the use of fixed doses may cause a clinical study to be negative, even if the investigative agent might otherwise have been expected to have therapeutic value (Strassler F, et al, 2006).

The method of medication delivery may also markedly affect both the extent of efficacy and range of side effects. The IOM has stated that oral dronabinol has low bioavailability and a prolonged onset of action, making it extremely difficult for patients to adjust their dose (Joy JE, Watson, Jr. SJ, & Benson JA, 1999). Psychoactivity, often in the form of dysphoria, is a problem and may prevent a patient from consuming a dose large enough to have therapeutic effect. It has been reported that some cannabis dispensaries prepare elixirs, honeys, baked goods, and candies, but there are no reliable data to indicate whether these preparations are more efficacious and/or better tolerated than oral dronabinol.

Different subgroups of patients may have different responses to cannabis and cannabinoids. Patients with debilitating and/or chronic medical conditions, elderly patients, and those who are cannabis-naïve may be more sensitive to CNS and other side effects. In addition, there is evidence of a gender difference in responsiveness to cannabinoids, particularly with regard to analgesia (Hazekamp A & Grotenhermen F, 2010).

Results of Controlled Clinical Trials

Cannabinoid research—both preclinical and clinical—has increased almost exponentially in the past 20 years. A number of thorough reviews have been published which describe these studies (Joy JE, Watson, Jr. SJ & Benson JA, 1999; Ben Amar M., 2006; Russo EB, 2008; Hazekamp A & Grotenhermen F, 2010; Health Canada, Information for Health Care Professionals, 2003). Unfortunately, most literature reviews structure their analyses by the type of disease state, rather than the specific type of cannabis or cannabinoid intervention that was used to study that disease state. For the reasons stated above, this has the result of creating confusion and uncertainty, since different cannabis- and cannabinoid-preparations (with different formulations and dosage forms) may have different effects. Therefore, the brief summary of recent studies described below will focus on the type of cannabis or cannabinoid medication. In a limited number of studies, two such medications were compared against placebo. In such cases, the studies are generally mentioned twice.

Oral Cannabinoid Preparations

Dronabinol

Dronabinol (synthetic) is the best-known oral cannabinoid preparation.²⁸ The FDA approved it in 1985 for treatment of nausea and vomiting associated with cancer chemotherapy in patients who had failed adequately to respond to existing antiemetic treatments, and in 1992 for anorexia associated with weight loss in patients with AIDS. It showed efficacy in early studies by comparison to then-available anti-emetics (Council on Scientific Affairs Report 6, 2001). It has not, however, been compared with more recent anti-emetic medications, which have much better efficacy. One study has shown efficacy in delayed chemotherapy-induced nausea and vomiting comparable to ondansetron, although the combination of dronabinol and ondansetron did not provide benefit beyond that observed with either agent alone (Meiri E, et al, 2007). It did not show efficacy in a trial comparing an oral cannabis extract (Cannador®), THC and placebo on appetite and quality of life in patients with cancer-related anorexia-cachexia syndrome and was not more efficacious than megestrol acetate (Jatoi A, et al, 2002; Strasser F, et al, 2006). For a study investigating dronabinol and smoked cannabis on viral load and food intake in HIV positive patients, see discussion below.

Studies of Marinol® as an analgesic and/or antispasmodic have been mixed. Early studies found it efficacious in reducing cancer pain at doses of 10, 15, and 20 mg. but side effects were prominent (Noyes Jr R, Brunk SF, Avery DH, Canter A, 1975). It has been found effective in central neuropathic pain in multiple sclerosis, but not in postoperative pain (Buggy DJ, Toogood L, Maric S, et al, 2003; Svendsen KB, Jensen TS, & Bach FW, 2004). The Institute of Medicine has stated that, "It is well recognized that Marinol's oral route of administration hampers its effectiveness because of slow absorption and patients' desire for more control over dosing" (Joy JE, Watson Jr. SJ, & Benson JA, 1999).

In a large trial of patients with multiple sclerosis, dronabinol²⁹ did not show objective improvement in spasticity measured on the Ashworth scale, the primary endpoint. There was objective improvement in mobility and subjective improvements in spasticity, spasm, pain and sleep quality (Zajicek J, et al, 2003). In a one-year follow up, patients showed a small objective improvement in spasticity, as well as highly significant subjective improvements in spasticity, spasm, pain, tiredness and sleep (Zajicek J, et al, 2005).

Cesamet®

Cesamet® (Nabilone) is a synthetic cannabinoid analogue that is believed to be more potent than THC. It is approved for the treatment of nausea and vomiting associated

²⁸ The branded name is Marinol®. In Schedule III of the CSA, the substance is defined as: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a US Food and Drug Administration approved product. 21 CFR sec. 1308.13(g)(1). Generic versions of Marinol® are now on the market.

²⁹ This study compared dronabinol, Cannador® and placebo.

with cancer chemotherapy in patients who have failed adequately to respond to available antiemetics. In one small study, it has been shown to reduce spasticity-related pain in patients with upper motor neuron syndrome (Wissel J, et al, 2006). In a controlled study of patients undergoing various surgical procedures, high dose Nabilone in the presence of morphine PCA was associated with an increase in pain scores (Beaulieu P, 2006).

Cannador®

Cannador® is an oral cannabis extract (encapsulated), with reportedly a 2:1 ratio of THC to CBD. It is under investigation in Europe by the Institute for Clinical Research. In a study comparing Cannador® with dronabinol and placebo on appetite and quality of life in patients with cancer-related anorexia-cachexia syndrome, no differences were found between Cannador®, THC or placebo (Strasser F, et al, 2006). In a large study of patients with multiple sclerosis, it did not show objective improvement in spasticity measured on the Ashworth scale, although there was subjective improvements in spasticity, spasm, pain and sleep quality (Zajicek J, et al, 2003). In a one-year follow up, patients showed a small objective improvement in spasticity, as well as highly significant subjective improvements in spasticity, spasm, pain, tiredness and sleep (Zajicek J, et al, 2005).

In analgesic studies, Cannador® has shown a modest dose-dependent decrease in rescue analgesia requirements in postoperative pain (Holdcroft A, Maze M, 2006).

Smoked/vaporized Herbal Cannabis

In 2003, a controlled residential study found that both smoked cannabis and dronabinol had beneficial effects on appetite and weight gain in HIV positive patients on stable anti-retroviral therapy. In the course of the 21-day treatment period, there was no adverse effect on viral load or the number of CD4+ and CD8+ lymphocytes, nor did the two forms of cannabinoids interfere with the protease inhibitors taken by the patients (Abrams DJ, et al, 2003). A subsequent study demonstrated that both smoked cannabis and dronabinol increased food intake in experienced cannabis smokers, although this increase paralleled increased ratings of intoxication (Hanley M, Rabkin J, Gunderson E, Foltin RW, 2005).

In 1999, the Center for Medicinal Cannabis Research (CMCR) was established pursuant to legislation commissioning the University of California to establish a research program to investigate the therapeutic potential of cannabis and cannabinoids. Over the course of the next ten years, CMCR approved and funded fifteen clinical studies, including seven controlled clinical trials, of which five have completed and two are ongoing (Center for Medical Cannabis Research, 2010). Five clinical studies have been published in peer-reviewed journals. Three of these studies involved neuropathic pain; a fourth involved experimental pain, and one involved a pilot study for a cannabis delivery device (Abrams DI, et al, 2007; Wilsey B, et al, 2008; Ellis RJ, et al, 2009).

These studies have provided preliminary evidence of analgesic efficacy which suggest that further trials of cannabis-derived and cannabinoid medications in neuropathic

pain of various origins should be pursued to identify desirable cannabis-based or cannabinoid formulations and modes of delivery. The results of these studies cannot, however, be said to “prove” that smoked cannabis should be made available to patients with chronic pain conditions. Each study was conducted in a small number of patients and was of very short duration. In almost all cases, the patients were cannabis-experienced. Indeed, in one study, the authors noted that only cannabis experienced patients were entered into the study in order “to reduce the risk of adverse psychoactive effects in naïve individuals” (Wilsey B, et al, 2008). Therefore, the risk/benefit profile in these patients—particularly the incidence of adverse CNS events--cannot be generalized to cannabis-naïve patients. In fact, in one study, an incident of acute cannabis-induced psychosis occurred in a cannabis-naïve patient, resulting in his withdrawal from the study (Ellis RJ, et al, 2009).

Even among cannabis-experienced patients, the level of adverse events was notable; in one study, cognitive impairment was especially prominent (Wilsey B, et al, 2008). This could suggest that an inhalation mode of delivery may not be optimal. Such rapid delivery of THC may not be necessary in patients with chronic conditions, so long as the dosage form enables patients to titrate their dosing level to individual benefit/tolerability over several days. The cannabis available in these studies was a maximum of 8% THC. In one study, cannabis of only 3.5% generated a significant CNS side effect profile (Abrams DI, et al, 2007). Such CNS side effects would no doubt be even more prevalent if patients were to use higher-potency cannabis, such as that available in dispensaries. Finally, the effectiveness of the blinding is subject to question, since the patients were cannabis-experienced and could be expected to be able to distinguish active from placebo. In the Ellis study, blinding was evaluated; 93% of those patients assigned to receive cannabis accurately guessed that they were on active medication, whereas the patients assigned to placebo generally did not guess correctly (Ellis RJ, et al, 2009).

The results of these studies, while quite interesting, constitute at most the early stages of cannabinoid medication development. Neither the efficacy nor the adverse events in these short-term acute studies can be extrapolated to chronic use. Alone, they could not form the basis of FDA approval, nor of cannabis rescheduling.

Oromucosal/sublingual Cannabis-derived Preparations

Sativex® (nabiximols) is a botanically derived cannabis extract with a defined 1:1 ratio of THC to CBD and delivered as an oromucosal spray.³⁰ Sativex® has shown positive results as an adjunctive treatment in controlled studies involving patients (with previously intractable symptoms who remained on all their existing medications) with brachial plexus avulsion (Berman JS, Symonds C, Birch R, 2004), central neuropathic pain in multiple sclerosis (Rog DJ, Nurmillo T, Friede T, et al, 2005), spasticity in multiple sclerosis (Collins C, Davies P, Mutiboko IK, Ratcliffe S, 2007), rheumatoid arthritis (Blake DR, et al, 2006), peripheral neuropathic pain (Nurmikko TJ, Serpell MC, Hoggart B, et al, 2007), and pain associated with advanced cancer (Johnson JR, Burnell-Nugent M, Lossignol D, et al, 2010).

³⁰ Sativex® is produced by GW Pharmaceuticals in the UK. Nabixomols is the US Adopted Name (USAN).

Interestingly, in the cancer pain study, nabiximols showed statistically significant analgesic effect compared with placebo, whereas a THC-predominant extract did not. This may suggest that the THC: CBD formulation has a different therapeutic impact compared to THC without CBD.

Symptom relief with nabiximols was maintained in long-term studies, without the need for dose escalation (Wade DT, Makela PM, House H, et al, 2006). Patients who abruptly withdrew from nabiximols did not exhibit a cannabis withdrawal syndrome (Budney AJ & Hughes JR, 2006) or any withdrawal symptoms requiring treatment. Intoxication scores remained low, even during dose titration (Wade DT, Makela PM, House H, et al, 2006). Sativex® does not induce psychopathology or impair cognition in cannabis-naïve patients with multiple sclerosis (Aragona M, et al, 2009). By contrast, smoked cannabis produces cognitive impairment in patients with Multiple Sclerosis (Ghaffaro O and Feinstein A, 2008).

Sativex® is approved in the UK, Spain, New Zealand, and Canada as an adjunctive treatment for spasticity in multiple sclerosis and may be available soon thereafter in other European Union countries under harmonized recognition procedures. Canada has also approved it under the Notice of Compliance with Conditions (NOC/c) as an adjunctive treatment for neuropathic pain in multiple sclerosis and for pain associated with advanced cancer pain. In the United States, it is undergoing advanced clinical studies in patients with advanced cancer whose pain has not been adequately relieved by strong (Step III) opioids.

Are There Principled Reasons for Exempting Cannabis from the Quality, Safety, and Efficacy Requirements of the Modern Medication Model?

Is Cannabis Benign?--Risks and Side Effects

Cannabis is not a “harmless herb.” According to the IOM, it is a “powerful drug with a variety of effects” (Joy JE, Watson, Jr. SJ & Benson JA, 1999). To be sure, all medications have potential side effects, some of them quite serious. During the course of controlled clinical trials (both pre- and post-marketing), many of these side effects are identified, and a medication’s benefit/risk profile can thereby be assessed, by both regulatory authorities and the medical profession. Ongoing physician supervision allows these risks to be managed, e.g., by dose adjustment, discontinuation of treatment, or rotation to/augmentation by an alternate or additional medication. Medication labels and inserts apprise patients of probable side effects. For example, patients should be warned of the risks of driving or operating heavy machinery while under the influence of cannabinoids (U.S. National Highway Traffic Safety Administration, 2004; Beirness DJ & Porath-Waller AM, 2009).³¹ Cannabis products distributed by dispensaries lack this information.

A number of side effects may be of particular concern when cannabis is used in significant amounts daily, over a long period, in smoked form, by patients with debilitating

³¹ Inhalation of cannabis produces deficits in tracking, reaction time, visual function, and divided attention.

medical conditions. The acute effects of pure THC and high-THC cannabis that are relevant to medical use include intoxication (including dysphoria), anxiety (including panic attacks), hallucinations and other psychotic-like symptoms, somnolence, confusion, psychomotor impairment, cognitive impairment, dizziness, orthostatic hypotension, dry mouth ³², and tachycardia (Joy JE, Watson, Jr. SJ & Benson JA, 1999). In clinical trials of cannabinoid medications, patients with pre-existing serious mental disorders, significant hepatic or renal impairment, epilepsy, cardiac conditions, or prior substance abuse/dependence are typically excluded. Nevertheless, patients with these conditions are routinely added to the "membership lists" of dispensaries.

The IOM recognized that these acute side effects are "within the risks tolerated for many medications" (Joy JE, Watson, Jr. SJ & Benson JA, 1999). As noted above, however, the side effects of other medications have been identified by means of extensive testing and examination in both nonclinical/preclinical and Phase I-III clinical trials, including large double-blind, placebo-controlled studies. The acute side effects of smoked cannabis have not been fully elucidated through such comprehensive testing. As a result of these potential side effects, which may more severely impact the elderly or those with hepatic or immune impairment, it is imperative that specific cannabis and cannabinoid medications are studied in particular medical conditions and patient populations, and patients using such medications in clinical practice should be properly supervised by their treating physicians. Under the current system in the 15 states that have "medical marijuana" laws, none of this data collection and physician supervision is taking place according to regulatory standards.

The chronic effects of inhaled cannabis are of special concern in the context of medical use. These chronic effects can be placed into several categories: the effects of chronic smoking and the effects of inhaled THC. Patients often use 1-5 grams a day of cannabis; this represents 1-8 cannabis cigarettes (Comeau P, 2007). The remaining patients in the federal Compassionate Use Program are provided with 300 cannabis cigarettes per month.³³

Cannabis smoke contains many of the components of tobacco smoke. Smoking a cannabis cigarette can deposit as much as four times the amount of tar in the lungs, compared to smoking a tobacco cigarette (Wu TC, Tashkin DP, Djahed B, Rose JE, 1988). This effect results from the fact that cannabis cigarettes lack filters and cannabis smokers inhale more deeply and hold their breath longer than tobacco smokers hold theirs (Joy JE,

³² Dry mouth can cause gum disease, tooth decay, and mouth infections, such as thrush.

³³ The National Institute on Drug Abuse (NIDA) supplies cannabis to several patients under a single patient so-called 'compassionate use' Investigational New Drug Applications (IND). In 1978, as part of a lawsuit settlement by the Department of Health and Human Services (DHHS), NIDA began supplying cannabis to patients whose physician applied for and received such an IND from the FDA. In 1992, the Secretary [of Health and Human Services] terminated this practice, but decided that NIDA should continue to supply those patients who were receiving cannabis at the time.
<http://www.drugabuse.gov/about/organization/nacda/MarijuanaStatement.html>

Watson, Jr. SJ & Benson JA, 1999). There is no doubt that chronic cannabis smoking is harmful to the lungs (Tashkin DP, 2005; Diplock J and Plecas D, 2009).³⁴

The inhalation of cannabis also poses a risk of abuse and dependency. As the IOM stated: “Adolescents, particularly those with conduct disorders, and people with psychiatric disorders, or problems with substance abuse appear to be at great risk for marijuana dependence than the general population.” Heavy cannabis use in adolescence is associated with a variety of neurocognitive deficits (Schweinsburg AD, Brown SA & Tapert SF, 2008). The high-potency cannabis now distributed by dispensaries could exacerbate these risks. The fact that adolescents have ready access to cannabis “cards,” without meaningful physician supervision, is particularly problematic.

These concerns are not vitiated by “vaporization,” currently popular with cannabis advocates. First, there are wide varieties of vaporizers available for purchase on the internet and at cannabis dispensaries, although the FDA has approved none of them as a medical device. They vary significantly in the extent to which they reduce toxic combustion products. Even the most sophisticated vaporizer, the Volcano®³⁵, has not been demonstrated to eliminate all polyaromatic hydrocarbons, at least at higher temperatures (Gieringer D, St. Laurent J & Goodrich S, 2004). Even at lower temperatures, ammonia and acetaldehyde have also not been shown to be eliminated (Russo E, 2006; Bloor RN, Wang TS, Spanel P, & Smith D, 2008).³⁶ By contrast, carbon monoxide does not appear to be released by vaporization with the Volcano ® (Abrams DI, et al, 2007).

Second, the products of vaporization are dependent on the quality and composition of the underlying herbal material. If that material is not highly standardized, the composition of the vapor will be uncertain. Because these devices have not been fully tested through the FDA process it is uncertain whether herbal material contaminated with pesticides or microbes would transmit these contaminants into the vapor. Unless the vaporizer device has a lockout mechanism, variability in intra- and inter-patient inhalation patterns may make it unlikely that a known and reproducible dose will be delivered.

Third, vaporization does not improve the side effect profile exhibited by smoked cannabis, including its psychoactive effects. Like smoking, vaporization causes THC plasma levels to rise abruptly (Miller J, Meuwesen I, ZumBrunnen T, & de Vries M, 2005). Rapid delivery of THC to the plasma and brain increases the likelihood of intoxication and abuse liability, and may promote dependency (Samaha AN & Robinson TE, 2005). Again, such

³⁴ In 2009, California’s Office of Environmental Health Hazard Assessment added cannabis smoke to its official list of known carcinogens. See, Tomar RS, Beaumont J, Hsieh JCY. Evidence on the Carcinogenicity of Marijuana Smoke. http://www.oehha.ca.gov/prop65/public_meetings/pdf/cicslides060509.pdf

³⁵ The Volcano® is produced by Storz & Bickel GmbH & Co. KG in Germany. <http://www.storz-bickel.com/vaporizer/storz-bickel-company-vaporizer-manufacturer.html>.

³⁶ It is important that the FDA assess medical devices that deliver vaporization products to the lungs. The FDA has recently warned consumers about the dangers of toxic and carcinogenic chemicals contained in electronic cigarettes, touted as a smoke-free and less harmful alternative to smoking. FDA, FDA News Release, “FDA and Public Health Experts Warn About Electronic Cigarettes.” <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm>

rapid delivery is probably not necessary for patients with chronic conditions so long as the dosage form enables such patients to titrate their dose adequately and predictably (Russo E, 2006).³⁷ For example, rapid onset opioid medications, such as buccal fentanyl, are prescribed for patients with breakthrough pain, not with chronic persistent pain. In fact, patients with such persistent pain are often placed on extended release opioid medications once their individual daily dose is established through short-term release medications.

Finally, when cannabis joints or vaporizers are shared, dangerous pathogens can be spread amongst seriously ill patients (Zanocco V, 2005).

Could a Cannabis Preparation Achieve FDA Approval?

As indicated above, the FDA has set forth the requirements for the development of a botanically based prescription medication. Those agency recommendations require that highly standardized cannabis herbal material (Botanical Raw Material) be developed into a Botanical Drug Substance and ultimately into a Botanical Drug Product. Under the Guidance document, it may be challenging for herbal material—even if standardized—to be approved, since the herbal material must also be incorporated into a defined and reproducible dosage form. As the AMA report recognized, “The future of cannabinoid-based medicine lies in the rapidly evolving field of **botanical drug substance development**, as well as the design of molecules that target various aspects of the endocannabinoid system” (American Medical Association, 2009). Smoked cannabis—particularly for chronic use—would no doubt pose risks that would be unacceptable to the agency. Improvements in vaporization technology would need to occur in order fully to eliminate all toxic combustion products and ensure a standardized and predictable dose.

None of this is impossible. Therefore, the obvious question arises: why, as a policy matter, should herbal cannabis be exempted from the modern medication model? Many new promising medications are under investigation, and suffering patients understandably seek to obtain access to them as early as possible. The FDA has established fast-track procedures³⁸ to facilitate this access, and compassionate access through Treatment INDs is often available during late-stage medication development.³⁹ Both the FDA and the federal courts, however, have concluded that seriously ill—even terminally ill—patients will not benefit on balance from products that have not completed the vast majority of steps leading to an approved medication (Abigail Alliance, 2008). In short, the concept of “medical necessity” is not sufficient to override the provisions of the Food, Drug and

³⁷ Inhaled cannabis has a shorter duration of action than oral or other dosage forms.

³⁸ 21 C.F.R. secs. 312.80, 312.10, 314.500.

³⁹The FDA may approve use of an investigational drug by patients not part of the clinical trials for the treatment of “serious or immediately life-threatening disease[s]” if there exists “no comparable or satisfactory alternative drug or other therapy,” if the drug is under investigation in a controlled clinical trial, and if the drug’s sponsor is actively pursuing marketing approval of the investigational drug with due diligence. 21 C.F.R. sec. 312.34.

Cosmetic Act (Abigail Alliance, 2008) or the Controlled Substances Act (United States v. Oakland Cannabis Buyers' Cooperative, 2001).

Allowing cannabis to circumvent the requirements of the FDA process sets a dangerous precedent for the future. For example, herbal products called "Spice," "Skunk," and "Sence" are currently becoming popular in the U.S. and Europe. These products contain herbal preparations that are "enriched" with synthetic cannabinoids, such as HU 210, which is much more potent than THC. These synthetic cannabinoids have been developed over the past 30 years for research purposes to investigate the endocannabinoid receptor system in non-human studies. Although these compounds have THC-like properties, they are much more potent than THC. Products containing these synthetic cannabinoids are marketed as "legal" alternatives to cannabis and are being sold over the internet and in tobacco and smoke shops, drug paraphernalia shops, and convenience stores. Could "Spice" advocates in the future contend that these products, too, should be made available to patients and other consumers without being tested through the FDA process? This is, indeed, a dangerously slippery slope.⁴⁰

The Significance of Scheduling

Both the AMA and ACP have recently questioned the status of cannabis's placement in Schedule I of the Controlled Substances Act.⁴¹ Schedule II substances are, for the most part, subject to the same restrictions and requirements under the Controlled Substances Act, including manufacturing and procurement quotas, security measures, recordkeeping, import/export permits, etc. It may be useful, therefore, to examine what the rescheduling of cannabis (presumably to Schedule II) would and would not achieve. Cannabis advocates commonly urge that cannabis be rescheduled "so that it can be made available to patients on prescription." Rescheduling herbal cannabis alone would not, however, be sufficient to create a medication that physicians could prescribe and pharmacists could dispense. In order to be prescribable, any particular medication must have successfully completed the FDA approval process. The FDA does not approve "bulk" substances, such as cannabis (or raw opium or coca leaves), for marketing and direct prescription. Therefore, a specific cannabis-derived medication would have to be developed in accordance with FDA standards, which would require that it be standardized, formulated, tested, and administered in an appropriate delivery system." In order for a Schedule II substance to be made available by prescription, it

⁴⁰ The DEA has recently acted on an emergency basis to place five such compounds in Schedule I. DOJ, DEA, "Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids into Schedule I," 75 Fed. Reg. 71636 (Nov. 24, 2010). This action will make possessing and selling these chemicals or the products that contain them illegal in the U.S. for at least one year while the DEA and the United States Department of Health and Human Services (DHHS) further study whether these chemicals and products should be permanently controlled.

⁴¹ Note cannabis is assigned to Schedule I under most state controlled substances laws, including California's.

must be contained in one or more specific dosage forms, as is the case for opium. Each and every one of such dosage forms must pass FDA muster” (Russo E, 2006).⁴²

FDA approval of a specific cannabis Botanical Drug Product would constitute “currently accepted medical use in the US,” thereby allowing that medication to be rescheduled into Schedule II or below (*Grinspoon v. DEA*, 1984).⁴³ Such FDA approval, however, would not necessarily require the rescheduling of bulk cannabis, despite the fact that opium and coca leaves are in Schedule II. Although the Controlled Substances Act schedules apply to classes of substances, rather than specific medications, precedent has developed for “differential scheduling.” For example, synthetic dronabinol, in a specific FDA-approved formulation, is listed in Schedule III, while pure THC in any other form remains in Schedule I.⁴⁴ Similarly, Xyrem®, an approved treatment for narcolepsy, is classified in Schedule III, while “street” versions of GHB remain in Schedule I (Neuman A, 2004). Therefore, if such a specific cannabis medication were approved by the FDA and rescheduled by the DEA, bulk herbal cannabis could still remain in Schedule I.

Rescheduling of cannabis would also not allow pharmacists to compound cannabis products for large numbers of patients. The FDA has issued numerous warning letters to compounding pharmacists, emphasizing that:

The drugs that pharmacists compound are not FDA-approved and lack an FDA finding of safety and efficacy, however, FDA has long recognized the important public health function served by traditional pharmacy compounding. FDA regards traditional compounding as the extemporaneous combining, mixing, or altering of ingredients by a pharmacist in response to a physician's prescription to create a medication tailored to the specialized needs of an individual patient. See *Thompson v. Western States Medical Center*, 535 U.S. 357, 360-61 (2002). ***Traditional compounding typically is used to prepare medications that are not available commercially, such as a drug for a patient who is allergic to an ingredient in a mass-produced product or diluted dosages for children.***

Through the exercise of enforcement discretion, FDA historically has not taken enforcement actions against pharmacies engaged in traditional pharmacy compounding. Rather, FDA has directed its enforcement resources

⁴² Interestingly, one prominent cannabis advocate, who has filed cannabis rescheduling actions, **does not contend** that rescheduling would make cannabis prescribable to patients. Gettman J. “Frequently Asked Questions about Medical Cannabis and Rescheduling.” http://www.drugscience.org/lib/freq_qst.html .

⁴³ As noted above, fn 14, delineating the criteria that must be met in order for a substance to have a “currently accepted medical use in the US.” These criteria can only be satisfied by a robust body of scientific data, not by the enactment of state laws that decriminalize the use of cannabis for medical purposes. US Department of Justice, DEA, letter to Carl Olsen (Dec. 19, 2008) (denying a petition for rescheduling). http://www.iowamedicalmarijuana.org/petitions/pdfs/dea_20081219.pdf

⁴⁴ The DEA has recently issued a Notice of Proposed Rulemaking (NPRM) proposing to transfer certain generic dronabinol products to Schedule III. DOJ, DEA, “Listing of Approved Drug Products Containing Dronabinol in Schedule III,” 75 Fed. Reg. 67054 (Nov. 1, 2010).

against establishments whose activities raise the kinds of concerns normally associated with a drug manufacturer and whose compounding practices result in significant violations of the new drug, adulteration, or misbranding provisions of the FDCA (FDA, Compliance Policy Guide, 2002; FDA, Warning Letter, 2006).

Rescheduling cannabis would not automatically reduce or otherwise affect federal criminal penalties for possession or trafficking. These statutes provide specific penalties for marijuana or for possessing a controlled substance without a lawful prescription.⁴⁵ Such statutes would require separate amendment in order for existing penalties to be modified, and this amendment process would involve different policy factors and considerations.

Cannabis rescheduling would also not necessarily allow the establishment of additional cannabis cultivation facilities to produce cannabis for research purposes. The United States is a signatory to the Single Convention on Narcotic Drugs 1961. That treaty requires that cannabis cultivated within the U.S. borders must be delivered to a national agency. In the US, the national agency is the National Institute on Drug Abuse (NIDA). NIDA has the exclusive authority over importing, exporting, wholesale trading, and maintaining stocks (Single Convention on Narcotic Drugs, 1961).⁴⁶ Only the University of Mississippi, under contract with NIDA, currently cultivates cannabis for research purposes (NIDA, 1997). The mandates of the treaty are not affected by cannabis's scheduling under US domestic law.⁴⁷

There is one respect, however, in which the rescheduling of cannabis could facilitate research. If a physician-investigator possesses a registration (the CSA term for a license) to dispense an FDA-approved Schedule II controlled substance, he or she may conduct research on any Schedule II substance, as a "coincident activity" to his/her registration to dispense, without the need to obtain a separate research registration from the DEA. (Of course, any such research would still need to be approved by the FDA and an appropriate institutional review board, as well as perhaps by a state regulatory body.⁴⁸ By contrast, a separate registration is required for Schedule I research.⁴⁹ In addition, each registration is protocol-specific. If a researcher wishes to conduct a different study on the same Schedule I substance, he/she must obtain a separate registration. Furthermore, a Schedule II practitioner registration must be renewed every three years; whereas a Schedule I research registration must be renewed annually. Thus, any delays associated with obtaining and renewing a Schedule I research registration could be obviated by the rescheduling of cannabis to Schedule II. This situation, however, could also be resolved by a more limited statutory and regulatory change that permitted practitioners with Schedule II

⁴⁵See, e.g., 21 U.S.C. secs. 841,844.

⁴⁶ There is an exception for stocks held by manufacturers of pharmaceutical preparations. Art. 23, para. 2(e).

⁴⁷ For fuller discussion of the requirements of the Single Convention, see Department of Justice, DEA, Lyle E. Craker; Denial of Application, 74 *Fed. Reg.* 2101 (Jan. 14, 2009).

⁴⁸ 21 U.S.C. sec. 823(f); 21C.F.R. secs.1301.13.

⁴⁹ 21 C.F.R. sec.1301.18.

registrations to conduct Schedule I cannabis/cannabinoid research as a coincident activity to their existing registrations.

Conclusions

“Cognitive dissonance” is a term that aptly describes the current approach to “medical marijuana.” Scientists recognize the public health harms of tobacco smoking and urge our young people to refrain from the practice, yet most cannabis consumers use smoking as their preferred delivery mechanism. The practice of medicine is increasingly evidence-based, yet some physicians are willing to consider “recommending” cannabis to their patients, despite the fact that they lack even the most rudimentary information about the material currently being consumed by patients (composition, quality, and dose, and no controlled studies provide information on its benefit and safety of its use in chronic medical conditions). Pharmaceutical companies are responsible for the harms caused by contaminated or otherwise dangerous products and tobacco companies can be held accountable for harms caused by cigarettes, yet, dispensaries distribute cannabis products about which very little are known, including their source. Efforts are being made to stem the epidemic of prescription drug abuse, including FDA-mandated risk management plans required for prescription medications, yet cannabis distribution sites proliferate in many states, virtually without regulation.

In order to think clearly about “medical marijuana,” one must distinguish first between 1) the therapeutic potentials of specific chemicals found in marijuana that are delivered in controlled doses by nontoxic delivery systems, and 2) smoked marijuana.

Second, one must consider the drug approval process in the context of public health, not just for medical marijuana but also for all medicines and especially for controlled substances. Controlled substances are drugs that have recognized abuse potential. Marijuana is high on that list because it is widely abused and a major cause of drug dependence in the United States and around the world. When physicians recommend use of scheduled substances, they must exercise great care. The current pattern of “medical marijuana” use in the United States is far from that standard.

If any components of marijuana are ever shown to be beneficial to treat any illness then physicians should prescribe those components by nontoxic routes of administration in controlled doses just all other medicines are in the U.S.

In order for physicians to fulfill their professional obligations to patients, and in order for patients to be offered the high standard of medical care that we have come to expect in the United States, cannabis-based medications must meet the same exacting standards that we apply to other prescription medicines. Members of the American Society of Addiction Medicine are physicians with expertise in addiction medicine with knowledge specific to the risks associated with the use of substances with high abuse potential. ASAM must stand strongly behind the standard that any clinical use of a controlled substance

must meet high standards to protect the patient and the public; the approval of “medical marijuana” does not meet this standard.

Recommendations

ASAM asserts that cannabis, cannabis-based medications, and cannabis delivery devices should be subject to the same standards that are applicable to other prescription medications and medical devices and that these medications or devices should not be distributed or otherwise provided to patients unless and until such medications or devices have received marketing approval from the Food and Drug Administration.

ASAM recommends its members and other physician organizations and their members reject responsibility for providing access to cannabis and cannabis-based medications until such time that these materials receive marketing approval from the Food and Drug Administration.

ASAM rejects smoking as a means of drug delivery since it is inherently unsafe.

ASAM supports the need for federal regulatory standards for drug approval and distribution. ASAM recognizes that states can enact limitations that are more restrictive but rejects the concept that states could enact more permissive regulatory standards. ASAM discourages state interference in the federal medication approval process.

ASAM rejects a process whereby State and local ballot initiatives approve medicines because these initiatives are being decided by individuals not qualified to make such decisions (based upon a careful science-based review of safety and efficacy, standardization and formulation for dosing, or provide a means for a regulated, closed system of distribution for marijuana which is a CNS drug with abuse potential).

ASAM asserts that physician organizations operating in states where physicians are placed in the gate-keeping role have an obligation to help licensing authorities assure that physicians who choose to discuss the medical use of cannabis and cannabis-based products with patients:

- Adhere to the established professional tenets of proper patient care, including
 - History and good faith examination of the patient;
 - Development of a treatment plan with objectives;

- Provision of informed consent⁵⁰, including discussion of risks, side effects, and potential benefits;
 - Periodic review of the treatment’s efficacy;
 - Consultation, as necessary; and
 - Proper record keeping that supports the decision to recommend the use of cannabis
- Have a *bona fide* physician-patient relationship with the patient, i.e., should have a pre-existing and ongoing relationship with the patient as a treating physician⁵¹;
 - Ensure that the issuance of “recommendations” is not a disproportionately large (or even exclusive) aspect of their practice;
 - Not issue a recommendation unless the physician has adequate information regarding the composition and dose of the cannabis product;
 - Have adequate training in identifying substance abuse and addiction⁵².

Acknowledgements

This paper was written by a President’s Action Committee on Medical Marijuana of the American Society of Addiction Medicine. Members of the committee were: Andrea G. Barthwell, MD, and Robert DuPont, MD, Co-chairs, Louis E. Baxter, Sr., MD, President of ASAM, Timmen Cermak, MD, Petros Levounis, MD, and Mark Kraus, MD members. The ASAM Board of Directors accepted the recommendations at its annual meeting April 2010 and requested expert field review from ASAM’s Board of Directors, ASAM’s Public Policy Committee, ASAM’s Chapters Council, and ASAM’s Membership Committee. Comments were submitted by interested members and incorporated into this final version September 2010.

⁵⁰ If a physician recommends the use of cannabis for a minor, parents and/or legal guardians must be fully informed of the potential risks and benefits of such use and must consent to that use.

⁵¹ This provision may be modified if the prescribing physician is a *bona fide* consultant brought into the care of a patient by the physician with whom the patient has a relationship. This further defines how to view and evaluate the actions of the physician who holds her/himself out as an expert in cannabis medical care who has no connection to the primary physician of the patient for whom crude cannabis is recommended.

⁵² This is particularly germane to the ASAM which consists of physicians knowledgeable in drug abuse and addiction and who advocate to ensure that all physicians have the knowledge to manage CNS medications responsibly in the general patient population and can identify and treat or refer for treatment cases of abuse and dependence to psychoactive substances.

References

Abigail Alliance for Better Access to Developmental Drugs and Washington Legal Foundation

v. von Eschenbach, 495 F.3d 695 (D.C. Cir. 2007) cert. den. 128 S. Ct. 1069 (2008).

Abrams DI, Jay MD, Shade SB, et al. Cannabis in painful HIV-associated sensory neuropathy:

a randomized placebo-controlled trial. *Neurology* 2007; 68(7):515-521.

Abrams DI, Hilton JF, Leiser RJ, et al. Short-term effects of cannabinoids in patients with

HIV-1 infection: a randomized, placebo-controlled clinical trial. *Ann Intern Med*

2003; 139(4):258-266.

Abrams DI, Vizoso HP, Shade SB, Jay C, Kelly ME, and Benowitz NL. Vaporization as a

smokeless cannabis delivery system: a pilot study. *Clin Pharm & Ther* 2007; 82

(5):572-578.

American College of Physicians. Supporting Research into the Therapeutic Role of

Marijuana. Philadelphia: American College of Physicians; 2008: Position Paper.

(Available from American College of Physicians, 190 N. Independence Mall West,

Philadelphia, PA 19106.)

http://www.acponline.org/advocacy/where_we_stand/other_issues/medmarijuana.pdf

American Nurses Association. Ethics and human rights. (2008, December 12) Retrieved December 29, 2009 from <http://www.nursingworld.org/EthicsHumanRights>.

Aragona M, Onesti E, Tomassini V, et al. Psychopathological and cognitive effects of therapeutic cannabinoids in multiple sclerosis: A double-blind, placebo controlled, crossover study. *Clin Neuropharm* 2009; 32(1):41-47.

Beaulieu P. Effects of nabilone, a synthetic cannabinoid, on postoperative pain. *Can J Anesth* 2006; 53(8):769-775.

Beirness DJ, Porath-Waller AM. Cannabis use and driving. *Clearing the Smoke on Cannabis*. Canadian Centre on Substance Abuse. 2009. Available at: www.ccsa.ca.

Belle-Isle L, Hathaway A. Barriers to access to medical cannabis for Canadians living with HIV/AIDS. *AIDS Care* 2007; 19(4):500-506.

Ben Amar M. Cannabinoids in medicine: A review of their therapeutic potential. *J Ethno-Pharmacol* 2006; 105:1-25.

Berman JS, Symonds C, Birch R. Efficacy of two cannabis based medicinal extracts for relief of central neuropathic pain from brachial plexus avulsion: results of a randomized controlled trial. *Pain* 2004; 112:299-306.

Previously e-mailed

Blake DR, Robson P, Ho M, Jubb, RW, McCabe CS. Preliminary assessment of the efficacy, tolerability and safety of a cannabis-based medicine (Sativex) in the treatment of pain caused by rheumatoid arthritis. *Rheumatology* (Oxford) 2006; 45:50-2.

Brown D. The New Science of Cannabinoid-Based Medicine: An Interview with Dr. Raphael Mechoulam, www.mavericksofthemind.com, Copyright 2005-6, Smart Publications.

Budney A, Hughes JR, Moore BA, Vandrey R. Review of the Validity and Significance of Cannabis Withdrawal Syndrome. *Am J Psychiatry* 2004; 161:1967-1977.

Budney AJ, Hughes JR. The cannabis withdrawal syndrome. *Curr Opin Psychiatry* 2006; 19:233-238.

Buggy DJ, Toogood L, Maric S, Sharpe P, Lambert DG, Rowbotham DJ. Lack of analgesic efficacy of oral delta-9-tetrahydrocannabinol in postoperative pain. *Pain* 2003; 106:169-172.

California Attorney General, Guidelines for the Security and Non-diversion of Marijuana

Grown for Medical Use. 2008. Available at:

http://ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf.

Previously e-mailed

California Sherman Food, Drug, and Cosmetic Act. Health & Safety Code secs. 109875-111915.

Canadian Medical Association, http://www.cma.ca/index.php?ci_id=3396&la_id=1 (2001).

Canwest News Service, "New Rules 'slap in the face': Medical marijuana advocates." The Gazette

<http://www.montrealgazette.com/health/watchdog+takes+Canada+medical+marijuana+program/2611923/Laws+ineffective+curbing+cannabis+Experts/2485837/rules+slap+face+Medical+marijuana+advocates/1632440/story.html> (2010).

Center for Medicinal Cannabis Research. Report to the Legislature and Governor of the State of California presenting findings pursuant to SB 847 that created the CMCR and provided state funding. 2010. Available at:

http://www.cmcr.ucsd.edu/CMCR_REPORT_FEB17.pdf

Chhatwal JP, Davis M, Maguschak KA, and Ressler KJ. Enhancing cannabinoid neurotransmission augments the extinction of conditioned fear.

Neuropsychopharmacology 2005;30(3): 516-24.

Cohen PJ. The Dietary Supplement Health and Education Act: Regulation at a Crossroads.

Am J L and Med 2005;31:175.

Collin C, Davies P, Mutiboko IK, Ratcliffe S. Randomized controlled trial of cannabis-based medicine in spasticity caused by multiple sclerosis. *Eur J Neu.* 2007; 14:290-296.

Previously e-mailed

Comeau P. New dosage limits for medical marijuana: But where's the science? CMAJ 2007; 177(6).

Conant v. Walters, 309 F.3d 629 (9th Cir. 2002).

Council on Science and Public Health Report 3. Use of cannabis for medicinal purposes.

American Medical Association, Interim Meeting, Houston, Texas; November 2009.

Available at:

<http://www.ama-assn.org/ama1/pub/upload/mm/38/i-09-csaph-reports.pdf>

Council on Scientific Affairs Report 6. Medical marijuana. American Medical Association, Annual Meeting, Chicago, Illinois; June 2001.

Council on Scientific Affairs Report 10. Medical marijuana. American Medical Association, Interim Meeting, Dallas, Texas; December 1997.

Department of Health and Human Services (DHHS), Food and Drug Administration (FDA).

Draft Guidance for Industry on Assessment of Abuse Potential of Drugs. 75 Fed. Reg. 4400; Jan. 27, 2010.

Department of Health and Human Services (DHHS), Food and Drug Administration (FDA).

Draft Guidance for Industry: Format and Content of Proposed Risk Evaluation and

Previously e-mailed

Mitigation Strategies (REMS), REMS Assessments, and Proposed REMS Modifications. 74 Fed. Reg. 50801 9; Oct. 1. 2009.

Department of Justice (DOJ), Drug Enforcement Administration (DEA). Authorized Sources of Raw Materials. 73 Fed. Reg. 6843; February 6, 2008. Department of Justice (DOJ), Drug Enforcement Administration (DEA), "Listing of Approved Drug Products Containing Dronabinol in Schedule III," 75 Fed. Reg. 67054 (Nov. 1, 2010).

Department of Justice (DOJ), Drug Enforcement Administration (DEA). "Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids into Schedule I," 75 Fed. Reg. 71636 (Nov. 24, 2010).

Devane WA, Hanus L, Breuer A, , et al. Isolation and structure of a brain constituent that binds to the cannabinoid receptor. *Science* 1992; 258(5090):1946-9.

Dietary Supplement Health and Education Act of 1994 (DSHEA), Pub. L. No. 103-417, 208 Stat. 4325 (codified as amended in scattered sections of 21 U.S.C. sec. 301-399) (2000).

DiForti M, Morgan C, Dazzan P, et al. High-potency cannabis and the risk of psychosis. *Br J Psych* 2009; 195:488-491.

Previously e-mailed

Diplock J, Plecas D. Respiratory effects of cannabis smoking. *Clearing the Smoke on Cannabis*. Canadian Centre on Substance Abuse. 2009. Available at: www.ccsa.ca.

Drug Enforcement Administration. DEA Statement on New Department of Justice Marijuana Guidelines. Available at: www.justice.gov/dea/pubs/pressrel/pr102209.html.

Educating Voices. The Potential Medical Liability for Physicians Recommending Marijuana as Medicine. July 2003. Available at:
http://www.educatingvoices.org/EVI_WhitePaper1.pdf.

Edwards S. UN watchdog takes aim at Canada's medical marijuana program. *The Gazette* February 25, 2010. Available at:
<http://www.montrealgazette.com/health/watchdog+takes+Canada+medical+marijuana+program/2611923/story.html>.

Ellis RJ, Toperoff W, Vaida F, et al. Smoked medicinal cannabis for neuropathic pain in HIV: a randomized, crossover clinical trial. *Neuropsychopharm* 2009; 34(3):672-680.

Fankhauser M. History of cannabis in Western Medicine. In: Grotenhermen F & Russo E (Editors), *Cannabis and Cannabinoids*. New York: The Haworth Integrative Healing Press, New York, 2002:37-51.

Previously e-mailed

Food and Drug Administration (FDA). Compliance Policy Guide, sec. 460.200 (“Pharmacy Compounding”), 67 Fed. Reg. 39, 409. June 7, 2002.

Food and Drug Administration (FDA). FDA Acts to Remove Ephedra Containing Dietary Supplements from Market.

<http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/2004/ucm108379.htm> (Nov. 23, 2004).

Food and Drug Administration (FDA). Guidance for Industry: Botanical Drug Products. 2004. Available at: <http://www.fda.gov/cder/guidance/index.htm>.

Food and Drug Administration (FDA), Inter-Agency Advisory Regarding Claims That Smoked Marijuana Is a Medicine. April 20, 2006. Available at:

<http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/2006/ucm108643.htm>.

Food and Drug Administration (FDA). Warning Letter: Hal’s Compounding Pharmacy, Inc. December 4, 2006. Available at:

<http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2006/ucm076195.htm> (emphasis added).

<http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm124736.pdf> .

Gardner F. What have California Doctors Learned About Cannabis. *Counterpunch* October 23, 2006. Available at: <http://www.counterpunch.org/gardner10232006.html>

Gardner F, Weirick J. Death of an Organizer. *CounterPunch*. October 2005. Available at: <http://www.counterpunch.org/gardner10292005.html>

Garrett ER, Hunt CA. Physicochemical properties, solubility, and protein binding of delta9-THC. *J Pharm Sci* 1974; 63:1056-1064.

Ghaffaro, O & Feinstein A. Multiple Scherosis and Cannabis. *Neurology* 2008; 71(3):164-169.

Grinspoon v. DEA, (1st Cir. 1987) 828 F.2d 881,890, citing H.R. Rep. No. 534, 98th Cong. 2d Sess. 4 (1984), reprinted in 1984 U.S. Code Cong. & Admin. News 540,543.

Guzman M. Cannabinoids: potential anticancer agents. *Nat Rev Cancer* 2003; 3: 745-755.

Guzman M, Duarte MJ, Blazquez C, et al. A pilot clinical study of Δ 9-tetrahydrocannabinol in patients with recurrent glioblastoma multiforme. *Br J Cance*. 2006; 95: 197-203.

Previously e-mailed

GW Pharmaceuticals. FDA Accepts Investigations New Drug (IND) Application for

Sativex®. January 4, 2006. Available at: <http://www.gwpharm.com/fda-accepts-application.aspx>.

Hamilton HC, Lescohier AW, & Perkins RA. The physiological activity of cannabis sativa. *J*

Amer Pharm Assn 1913; II:311-323. Reprinted in: Mikuriya TW (ed.). *Marijuana Medical Papers 1839-1972*, 1973.

Haney M, Rabkin J, Gunderson E, Foltin RW. Dronabinol and marijuana in HIV(+) marijuana

smokers: acute effects on caloric intake and mood. *Psychopharm (Berl)* 2005; 181(1):70-178.

Hazekamp A. An evaluation of the quality of medicinal grade cannabis in the Netherlands.

Cannabinoids 2006; 1(1):1-9.

Hazekamp A, Grotenhermen F. Review on clinical studies with cannabis and cannabinoids

2005-2009. *Cannabinoids* 2010; 5(special issue):1-21.

Health Canada. Information for Health Care Professionals. 2003 Available at:

<http://www.hc-sc.gc.ca/dhp-mps/marihuana/how-comment/medpract/infoprof/index-eng.php>.

Previously e-mailed

Health Canada. Marihuana Medical Access Regulations. 2001 Available at: <http://www.hc-sc.gc.ca/dhp-mps/marihuana/law-loi/acts-reg-loi-eng.php>.

Health Canada. Product information Sheet on Dried Marihuana (Cannabis). 2008.

Available at: <http://www.hc-sc.gc.ca/dhp-mps/marihuana/supply-approvis/index-eng.php>. Information for Health Care Professionals. 2003. Available at:

<http://www.hc-sc.gc.ca/dhp-mps/marihuana/how-comment/medpract/infoprof/index-eng.php>

Herkenham M, Lynn AB, Little MD, et al. Cannabinoid receptor localization in brain. *Proc Natl Acad Sci USA* 1990; 87(5):1932-6.

Holdcroft A, Maze M. A multicenter dose-escalation study of the analgesic and adverse effects of an oral cannabis extract (Cannador) for postoperative pain management. *Anesth.* 2006; 104:1040-6.

Howlett AC. Pharmacology of cannabinoid receptors. *Annu Rev Pharmacol Toxicol* 1995; 35: 607-34.

Huestis MA. Human cannabinoid pharmacokinetics. *Chem & Bio* 2007;4:1770-1804.

Huestis MA, Henningfield JE, Cone EJ. Blood cannabinoids. 1. Absorption of THC and formation of 11-OH-THC and THCCOOH during and after smoking marijuana. *J Anal Tox.* 1992; 16(5): 276-282.

Ibrahim, MM, Deng H, Zvonok A, Activation of CB2 cannabinoid receptors by AM1241 inhibits experimental neuropathic pain: pain inhibition by receptors not present in the CNS. *Proc Natl Acad Sci USA* 2003;100(18): 10529-33.

Jatoi A, Windschitl HE, Loprinzi CL, Dronabinol versus megestrol acetate versus combination therapy for cancer-associated anorexia: a North central cancer treatment group study. *J of Clin Onc* 2002; 20:567-573.

Johnson JR, Burnell-Nugent M, Lossignol D, Ganae-Motan ED, Potts R, Fallon MT. Multicenter, double-blind, randomized, placebo-controlled, parallel-group study of the efficacy, safety, and tolerability of THC:CBD extract and THC extract in patients with intractable cancer-related pain. *J Pain Symptom Manage* Feb 2010; 39(2):167-179.

Joy JE, Watson, Jr., SJ, & Benson, JA (Eds). *Marijuana and Medicine: Assessing the Science Base.* Division of Neuroscience and Behavioral Health. Institute of Medicine. Washington, DC: National Academy Press, 1999:126, 205-6.

Previously e-mailed

Karniol IG, Carlini EA. Pharmacological interaction between cannabidiol and Δ^9 -tetrahydrocannabinol. *Psychopharm* 1973;33:53-70.

Karniol IG, Shirakawa I, Kasinski N, Pfeferman A, Carlini EA. Cannabidiol interferes with the effects of Δ^9 -tetrahydrocannabinol in man. *Eur J Pharm* 1974; 28:172-177.

Marsicano G, Wotjak CT, Azad SC, et al. The endogenous cannabinoid system controls extinction of aversive memories. *Nature* 2002;418(6897):530-4.

Mathews AW. Is Marijuana a Medicine? *The Wall Street Journal*. Jan. 18, 2010.

McCarberg WH & Barkin RL. The Future of Cannabinoids as Analgesic Agents: A Pharmacologic, Pharmacokinetic, and Pharmacodynamic Overview *American Journal of Therapeutics* 2007; 14(5); 475-483,476.

Mechoulam R, Gaoni Y. A total synthesis of Δ^1 - Δ^9 -tetrahydrocannabinol, the active constituent in hashish. *J. Am. Chem. Soc.* 1965; 87: 3273-3275.

Mechoulam R, Maximillian P, Murillo-Rodriguez E, Hannus LO. Cannabidiol—Recent Advances. *Chem & Biodiv* 2007; 4:1678-1692.

Medical Board of California. In the Matter of the Accusation and Petition to Revoke Probation Against: Hany Assad, MD. October 2009. Available at:

Previously e-mailed

<http://licenselookup.mbc.ca.gov/licenselookup/lookup.php?LicenseType=A&LicenseNumber=54309>.

Medical Board of California, Medical Marijuana. 2004. Available at:

www.medbd.ca.gov/Medical_Marijuana.html

Medical Marijuana' Guidelines Don't Impact DOT Drug Testing," Land Line Oct. 22, 2009;

http://www.landlinemag.com/todays_news/Daily/2009/Oct09/101909/102209-06.htm

Meiri E, Jhangiani H, Vredenburg JJ, et al. Efficacy of dronabinol alone and in combination with ondansetron versus ondansetron alone for delayed chemotherapy-induced nausea and vomiting. *Curr Med Res Opin* 2007; 23(3):533-543.

Miller J, Meuwesen I, ZumBrunnen T, de Vries M. A Phase I evaluation of pulmonary dronabinol administered via a pressurized metered dose inhaler in healthy volunteers. Paper presented at: American Academy of Neurology; April 14, 2005; Miami Beach, FL.

Munro S, Thomas KL, Abu-Shaar M. Molecular characterization of a peripheral receptor for cannabinoids. *Nature* 1993; 365 (6441):61-5.

Previously e-mailed

National Center on Addiction and Substance Abuse. Non-Medical Marijuana III: Rite of Passage or Russian Roulette? June 2008. Available at:

http://www.casacolumbia.org/templates/publications_reports.aspx?keywords=marijuana.

National Institutes of Health. Workshop on the Medical Utility of Marijuana. 1997.

Retrieved December 29, 2009 from

<http://www.nih.gov/news/medmarijuana/MedicalMarijuana.htm>.

Neuman A. GHB's Path to Legitimacy: An Administrative and Legislative History of Xyrem.

(LEDA Harvard Law School) April 2004. Available at:

<http://leda.law.harvard.edu/leda/data/629/Neuman.html>.

NIDA. Provision of marijuana and other compounds for scientific research—

Recommendations of the National Institute on Drug Abuse National Advisory Council. January 1997.

Noyes Jr. R, Brunk SF, Avery DH, Canter A. The analgesic properties of delta-9-

tetrahydrocannabinol and codeine. *Clin Pharm and Therap* 1975; 15:139-143.

Noyes Jr. R, Brunk SF, Baram DA, Canter A. Analgesic effects of delta-9-

tetrahydrocannabinol. *J of Clin Pharm* 1975; 18:84-89.

Previously e-mailed

Nurmikko TJ, Serpell MG, Hoggart B., Toomey PJ, Morlion BJ, Haines D. Sativex successfully treats neuropathic pain characterized by allodynia: A randomized, double-blind, placebo-controlled clinical trial. *Pain* 2007; 133(1):210-20.

O'Connell TJ, Bou-Matar CB. Long term marijuana users seeking medical cannabis in California (2001-2007): demographics, social characteristics, patterns of cannabis and other drug use of 4117 applicants. *Harm Reduction Journal* 2007; 4:16.

Office of National Drug Control Policy. Marijuana Legalization; A Nonstarter. 2009

Available at:

www.whitehousedrugpolicy.gov/news/press09/marijuana_legalization.pdf

O'Shaughnessy WB. On the preparation of the Indian hemp or gunjah (*Cannabis indica*): the effects on the animal system in health and their utility in the treatment of tetanus and other convulsive diseases. *Trans. Med. Phys. Soc. Bengal* 1838-1840; 8: 421-461, reprinted in Mikuriya TH (ed.) *Marijuana Medical Papers 1839-1972*, 1973.

People v. Hemp Factory V et al., No. BC 424881 (Cal. Sup. Ct. Oct. 30, 2009). Memorandum of Points & Authorities in Support of Plaintiff's Application for Temporary Restraining Order, Order to Show Cause Re Preliminary Injunction and Preliminary Injunction.

Pertwee RG. The Pharmacology and Therapeutic Potential of Cannabidiol. In: DiMarzo V, editor. *Cannabinoids*. Dordrecht, Netherlands: Kluwer Academic Publishers; 2004.

Physicians for a Smoke-Free Canada. Health Canada's Policies on Marijuana Put Patients at Risk. January 2002. 1226A Wellington Street, Ottawa, Ontario K1Y 3A1 Available at: http://www.smoke-free.ca/pdf_1/psc-position-on-marijuana.PDF

Potter DJ, Clark P, Brown MB. Potency of Δ^9 -THC and other cannabinoids in cannabis in England in 2005: Implications for psychoactivity and pharmacology. *J Forensic Sci* 2008; 53(1):90-95.

Quartilho A, Mata HP, Ibrahim MM, et al. Inhibition of inflammatory hyperalgesia by activation of peripheral CB2 cannabinoid receptors. *Anesthesiology* 2003;99(4): 955-60.

Rog DJ, Nurmikko T, Friede T, et al. Randomized controlled trial of cannabis based medicine in central neuropathic pain due to multiple sclerosis. *Neurology* 2005; 65:812-19.

Romera J. Effect of chronic exposure to delta9-tetrahydrocannabinol on cannabinoid receptor binding and mRNA levels in several rat brain regions. *Brain Res Mol Brain Res* 1997 Jun; 46(1-2):100-8.

Russo E. The Solution to the Medicinal Cannabis Problem. *Ethical Issues in Chronic Pain Management* (Schatman ME and Gant BL eds.) Taylor & Francis: Boca Raton, FL, 2006.

Russo E, Guy GW. A tale of two cannabinoids: The therapeutic rationale for combining tetrahydrocannabinol and cannabidiol. *Med Hypoth* 2006; 66: 234-246.

Russo EB. Cannabinoids in the management of difficult to treat pain. *Ther And Clin Risk Manage* 2008; 4(1):245-259.

Russo EB. History of cannabis and its preparations in saga, science, and sobriquet. *Chem. & Biodiversity* 2007; 4:1614-1648, pp.1620, 1628.

Samaha AN and Robinson TE. Why does the rapid delivery of drugs to the brain promote addiction? *Trends in Pharmacological Sciences* 2005; 26(2):82-87.

Schweinsburg AD, Brown SA, Tapert SF. The influence of marijuana use on neurocognitive functioning in adolescents. *Curr Drug Abuse Rev* 2008; 1(1):99-111.

Single Convention on Narcotic Drugs 1961, art. 23, 28. 18 U.S.T. 1407. There is an exception for stocks held by manufacturers of pharmaceutical preparations. Art. 23, para. 2(e).

Previously e-mailed

Sterling E. Why “good” old fashioned Cannabis didn’t cause psychosis. Sterling on Justice & Drugs. January 22, 2010. Available at:

<http://justiceanddrugs.blogspot.com/2010/01/why-good-old-fashioned-cannabis-didnt.html>.

Strasser F, Luftner D, Possinger K, et al. Comparison of orally administered cannabis extract and delta-9-tetrahydrocannabinol in treating patients with cancer-related anorexia-cachexia syndrome: A multicenter, Phase III, randomized, double-blind, placebo-controlled clinical trial from the Cannabis-In-Cachexia_Study_Group. *J Clin Oncol* 2006; 24(21):3394-3400.

Svendsen KB, Jensen TS, Bach FW. Does the cannabinoid dronabinol reduce central pain in multiple sclerosis? Randomized double blind placebo controlled crossover trial. *BMJ* 2004; 329: 253.

Tashkin DP. Smoked marijuana as a cause of lung injury. *Monaldi Arch Chest Dis* 2005; 63(2):93-100.

Thurstone C. Smoke and mirrors: Colorado teenagers and marijuana. *Denver Post* Feb. 10, 2010.

US Department of Justice, Memorandum for Selected United States Attorneys (October 19, 2009) <http://blogs.usdoj.gov/blog/archives/192>

U.S. National Highway Traffic Safety Administration. Drugs and Human Performance Fact Sheets: Cannabis/Marijuana (Δ^9 -Tetrahydrocannabinol, THC). 2004. Available at: <http://www.nhtsa.dot.gov/people/injury/research/job185drugs/cannabis.htm>

US v. Oakland Cannabis Buyers Cooperative, 532 U.S. 483 (2001).

Varvel SA, Wise LE, Niyuhire F, Cravatt BF, and Lichtman AH. Inhibition of fatty-acid amide hydrolase accelerates acquisition and extinction rates in a spatial memory task. *Neuropsychopharmacology* 2007; 32(5):1032-41.

Wade DT, Makela PM, House H, Bateman C, Robson P. Long-term use of a cannabis-based medicine in the treatment of spasticity and other symptoms in multiple sclerosis. *Mult Scler* 2006; 12:639-645.

Wallace M, Schulteis G, Atkinson JH, et al. Dose-dependent effects of smoked cannabis on capsaicin-induced pain and hyperalgesia in healthy volunteers. *Anesth* 2007; 107: 785-796.

Walton RP. Marijuana: therapeutic application. *Marijuana: America's New Drug Problem*, JB Lippincott, 1928:151-157. Reprinted in: Mikuriya TW (ed.). *Marijuana Medical Papers 1839-1972*, 1973.

Wharry S. CMPA warns doctors of risks associated with prescribing marijuana. *CMAJ* January 8, 2002;166(1): 83; CMPA, "Medical marijuana: Update for physicians who complete a medical declaration under the Marihuana Medical Access Regulations," (revised May 2008). Available at: https://www.cmpa-acpm.ca/cmpapd04/docs/resource_files/infoletters/2005/com_il0540_2-e.cfm (accessed Feb. 22, 2010).

Wilsey B, Marcotte T, Tsodikov A, et al. A randomized, placebo-controlled, crossover trial of cannabis cigarettes in neuropathic pain. *J Pain* 2008; 9(6):506-521.

Wissel J, Haydn T, Muller J, et al. Low dose treatment with the synthetic cannabinoid Nabilone significantly reduces spasticity-related pain. *J Neurol* 2006; 253(10):1337-1341.

Wu TC, Tashkin DP, Djahed B, Rose JE. Pulmonary hazards of smoking marijuana as compared with tobacco. *N Eng J Med* 1988; 318:347-351.

Zajicek J, Fox P, Sanders H, et al. Cannabinoids for treatment of spasticity and other symptoms related to multiple sclerosis (CAMS study): multicenter randomized placebo-controlled trial. *The Lancet* 2003; 362: 1517-1526.

Previously e-mailed

Zajicek JP, Sanders HP, Wright DE, et al. Cannabinoids in multiple sclerosis (CAMS) study: safety and efficacy data for 123 months follow up. *J of Neurol, Neurosurgery and Psych* 2005; 76:1664-1669.

Zanocco V. Meningococcal cases linked by sharing joints. Vancouver, BC, Canada:

Vancouver Coastal Health; 2005. Available at:

http://www.vch.ca/news/docs/2005_04_07_mening_joints.pdf

Research Report

SERIES

In the 1970s, the baby boom generation was coming of age, and its drug of choice was marijuana. By 1979, more than 60 percent of 12th-graders had tried marijuana at least once in their lives. From this peak, the percentage of 12th-graders who had ever used marijuana decreased for more than a decade, dropping to a low of 33 percent in 1992. However, in 1993, first-time marijuana use by 12th-graders was on the upswing, reaching 50 percent by 1997. Although the percentage of 12th-graders who have experience with marijuana has remained roughly level since then, there is still reason to be concerned.¹ In 2002, an estimated 2.6 million Americans used marijuana for the first time. Roughly two-thirds of them were under age 18.² Furthermore, the marijuana that is available today can be 5 times more potent than the marijuana of the 1970s.

The use of marijuana can produce adverse physical, mental, emotional, and behavioral changes, and—contrary to popular belief—it can be addictive. Marijuana smoke, like cigarette smoke, can harm the lungs.³ The use of marijuana can impair short-term memory,⁴ verbal skills, and judgment and distort perception. It also may weaken the immune system⁵ and possibly increase a user's likelihood of developing cancer. Finally, the increasing use of marijuana by very young teens may have a profoundly negative effect upon their development.⁶

We hope that this research report will help make readers aware of our current knowledge of marijuana abuse and its harmful effects.

Nora D. Volkow, M.D.
Director
National Institute on Drug Abuse

MARIJUANA

Abuse

What is marijuana?

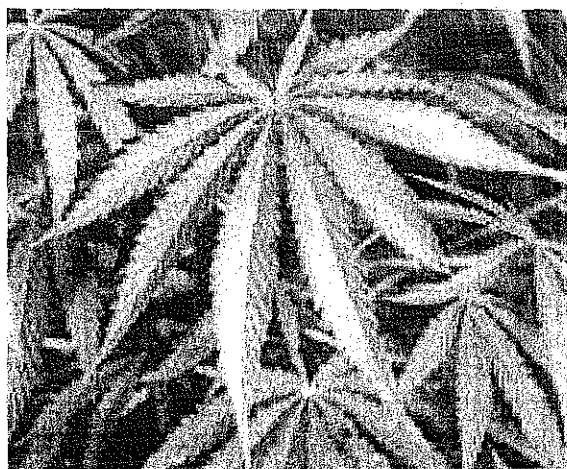
Marijuana—often called *pot*, *grass*, *reefer*, *weed*, *herb*, *mary jane*, or *mj*—is a greenish-gray mixture of the dried, shredded leaves, stems, seeds, and flowers of *Cannabis sativa*, the hemp plant. Most users smoke marijuana in hand-rolled cigarettes called *joints*, among other names; some use pipes or water pipes called *bongs*. Marijuana cigars called *blunts* have also become popular. To make blunts, users slice open cigars and replace the tobacco with marijuana, often combined with another drug, such as crack cocaine. Marijuana also is used to brew tea and is sometimes mixed into foods.

The major active chemical in marijuana is delta-9-tetrahydrocannabinol (THC), which causes the mind-altering effects of marijuana intoxication. The amount of THC (which is also the psychoactive ingredient in hashish) determines the potency and, therefore, the effects of marijuana. Between 1980 and 1997, the amount of THC in marijuana available in the United States rose dramatically.⁷

What is the scope of marijuana use in the United States?

Marijuana is the Nation's most commonly used illicit drug. More than 94 million Americans (40 percent) age 12 and older have tried marijuana at least once, according to the 2003 National Survey on Drug Use and Health (NSDUH).

Marijuana use is widespread among adolescents and young adults. The percentage of middle school students who reported using marijuana increased throughout the early 1990s.



JOURNAL OF DRUG ABUSE PREVENTION

In the past few years, according to the 2004 Monitoring the Future Survey, an annual survey of drug use among the Nation's middle and high school students, illicit drug use by 8th-, 10th-, and 12th-graders has leveled off. Still, in 2004, 16 percent of 8th-graders reported that they had tried marijuana, and 6 percent were current users (defined as having used the drug in the 30 days preceding the survey). Among 10th-graders, 35 percent had tried marijuana sometime in their lives, and 16 percent were current users. As would be expected, rates of use among 12th-graders were higher still. Forty-six percent had tried marijuana at some time, and 20 percent were current users.

The Drug Abuse Warning Network (DAWN), a system for monitoring the health impact of drugs, estimated that, in 2002, marijuana was a contributing factor in over 119,000 emergency department (ED) visits in the United States, with about 15 percent of

the patients between the ages of 12 and 17, and almost two-thirds male.⁸

In 2002, the National Institute of Justice's Arrestee Drug Abuse Monitoring (ADAM) Program, which collects data on the number of adult arrestees testing positive for various drugs, found that, on average, 41 percent of adult male arrestees and 27 percent of adult female arrestees tested positive for marijuana.⁹ On average, 57 percent of juvenile male and 32 percent of juvenile female arrestees tested positive for marijuana.

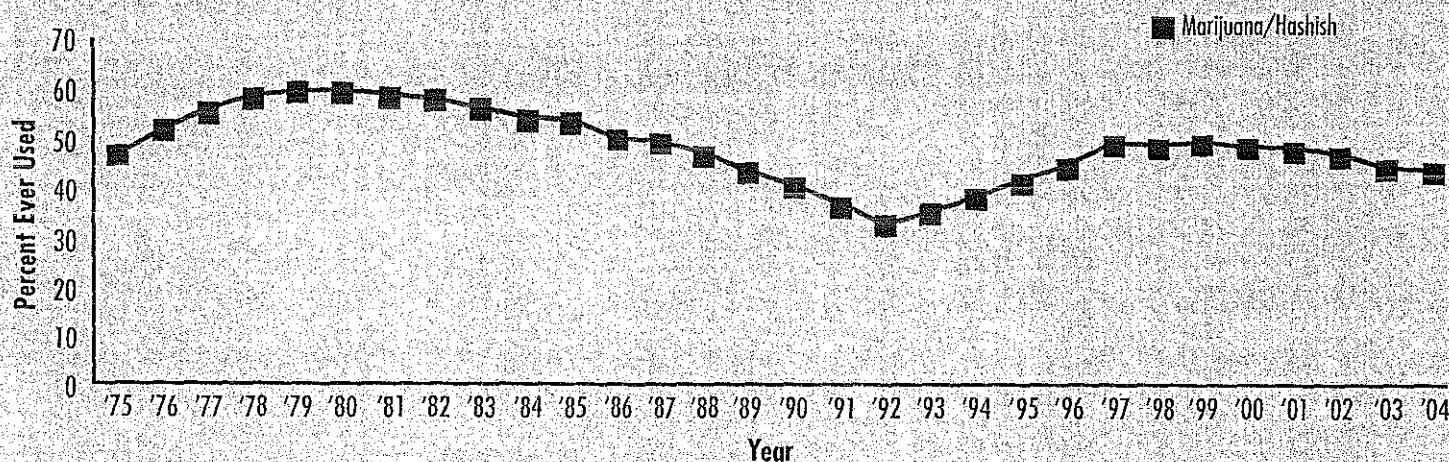
NIDA's Community Epidemiology Work Group (CEWG), a network of researchers that tracks trends in the nature and patterns of drug use in major U.S. cities, consistently reports that marijuana frequently is combined with other drugs, such as crack cocaine, PCP, formaldehyde, and codeine cough syrup, sometimes without the user being aware of it. Thus, the risks associated with marijuana use may

be compounded by the risks of added drugs, as well.

How does marijuana affect the brain?

Scientists have learned a great deal about how THC acts in the brain to produce its many effects. When someone smokes marijuana, THC rapidly passes from the lungs into the bloodstream, which carries the chemical to organs throughout the body, including the brain. In the brain, THC connects to specific sites called *cannabinoid receptors* on nerve cells and thereby influences the activity of those cells. Some brain areas have many cannabinoid receptors; others have few or none. Many cannabinoid receptors are found in the parts of the brain that influence pleasure, memory, thought, concentration, sensory and time perception, and coordinated movement.

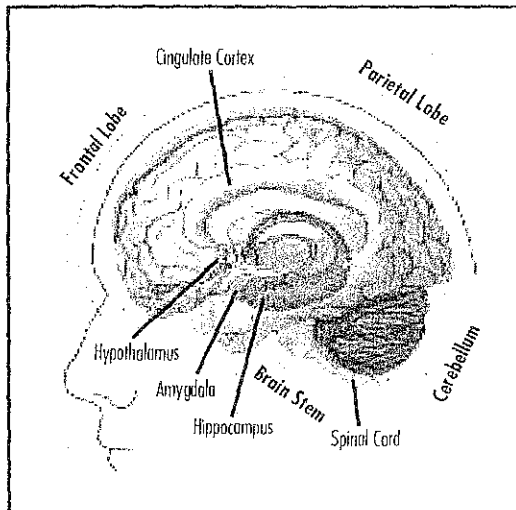
Long-Term Trends in Lifetime* Marijuana Use by 12th-Graders



*at least once in a lifetime

Source: The Monitoring the Future Survey, the University of Michigan

Marijuana's Effects on the Brain



When marijuana is smoked, its active ingredient, THC, travels throughout the body, including the brain, to produce its many effects. THC attaches to sites called cannabinoid receptors on nerve cells in the brain, affecting the way those cells work. Cannabinoid receptors are abundant in parts of the brain that regulate movement, coordination, learning and memory, higher cognitive functions such as judgment, and pleasure.

Brain Region	Functions Associated With Region
Brain regions in which cannabinoid receptors are abundant	
Cerebellum	Body movement coordination
Hippocampus	Learning and memory
Cerebral cortex, especially cingulate, frontal, and parietal regions	Higher cognitive functions
Nucleus accumbens	Reward
Basal ganglia Substantia nigra pars reticulata Entopeduncular nucleus Globus pallidus Putamen	Movement control
Brain regions in which cannabinoid receptors are moderately concentrated	
Hypothalamus	Body housekeeping functions (body temperature regulation, salt and water balance, reproductive function)
Amygdala	Emotional response, fear
Spinal cord	Peripheral sensation, including pain
Brain stem	Sleep and arousal, temperature regulation, motor control
Central gray	Analgesia
Nucleus of the solitary tract	Visceral sensation, nausea and vomiting

What are the acute effects of marijuana use?

When marijuana is smoked, its effects begin immediately after the drug enters the brain and last from 1 to 3 hours. If marijuana is consumed in food or drink, the short-term effects begin more slowly, usually in 1/2 to 1 hour, and last longer, for as long as 4 hours. Smoking marijuana deposits several times more THC into the blood than does eating or drinking the drug.

Within a few minutes after inhaling marijuana smoke, an individual's heart begins beating more rapidly, the bronchial

passages relax and become enlarged, and blood vessels in the eyes expand, making the eyes look red. The heart rate, normally 70 to 80 beats per minute, may increase by 20 to 50 beats per minute or, in some cases, even double. This effect can be greater if other drugs are taken with marijuana.

As THC enters the brain, it causes a user to feel euphoric—or "high"—by acting in the brain's reward system, areas of the brain that respond to stimuli such as food and drink as well as most drugs of abuse. THC activates the reward system in the same way that nearly all drugs of abuse do, by stimulating brain cells to release the chemical dopamine.

A marijuana user may experience pleasant sensations, colors and sounds may seem more intense, and time appears to pass very slowly. The user's mouth feels dry, and he or she may suddenly become very hungry and thirsty. His or her hands may tremble and grow cold. The euphoria passes after awhile, and then the user may feel sleepy or depressed. Occasionally, marijuana use produces anxiety, fear, distrust, or panic.

Heavy marijuana use impairs a person's ability to form memories, recall events (see Marijuana, Memory, and the Hippocampus), and shift attention from one thing to another.¹⁰ THC also disrupts coordination and balance by

binding to receptors in the cerebellum and basal ganglia, parts of the brain that regulate balance, posture, coordination of movement, and reaction time. Through its effects on the brain and body, marijuana intoxication can cause accidents. Studies show that approximately 6 to 11 percent of fatal accident victims test positive for THC. In many of these cases, alcohol is detected as well.¹¹

In a study conducted by the National Highway Traffic Safety Administration, a moderate dose of marijuana alone was shown to impair driving performance; however, the effects of even a low dose of marijuana combined with alcohol were markedly greater than for either drug alone.¹² Driving indices measured included reaction time, visual search frequency (driver checking side streets), and the ability to perceive and/or respond to changes in the relative velocity of other vehicles.

Marijuana users who have taken high doses of the drug may experience acute toxic psychosis, which includes hallucinations, delusions, and depersonalization—a loss of the sense of personal identity, or self-recognition. Although the specific causes of these symptoms remain unknown, they appear to occur more frequently when a high dose of cannabis is consumed in food or drink rather than smoked.

How does marijuana use affect physical health?

Marijuana use has been shown to increase users' difficulty in trying to quit smoking tobacco.¹³ This was reported in a study comparing smoking cessation in adults who smoked both marijuana and tobacco with those who smoked

Marijuana, Memory, and the Hippocampus

Marijuana's damage to short-term memory seems to occur because THC alters the way in which information is processed by the hippocampus, a brain area responsible for memory formation. Laboratory rats treated with THC displayed the same reduced ability to perform tasks requiring short-term memory as other rats showed after nerve cells in their hippocampus were destroyed. In addition, the THC-treated rats had the greatest difficulty with the tasks precisely during the time when the drug was interfering most with the normal functioning of cells in the hippocampus.

As people age, they normally lose neurons in the hippocampus, which decreases their ability to remember events. Chronic THC exposure may hasten the age-related loss of hippocampal neurons. In one series of studies, rats exposed to THC every day for 8 months (approximately 30 percent of their lifespan), when examined at 11 to 12 months of age, showed nerve cell loss equivalent to that of unexposed animals twice their age.

only tobacco. The relationship between marijuana use and continued smoking was particularly strong in those who smoked marijuana daily at the time of the initial interview, 13 years prior to the followup interview.

A study of 450 individuals found that people who smoke marijuana frequently but do not smoke tobacco have more health problems and miss more days of work than nonsmokers do. Many of the extra sick days used by the marijuana smokers in the study were for respiratory illnesses.

Even infrequent marijuana use can cause burning and stinging of the mouth and throat, often accompanied by a heavy cough. Someone who smokes marijuana regularly may have many of the same respiratory problems that tobacco smokers do, such as daily cough and phlegm production, more frequent acute chest illnesses, a heightened risk of lung infections, and a greater tendency toward obstructed airways.³

Cancer of the respiratory tract and lungs may also be promoted by marijuana smoke.³ A study comparing 173 cancer patients and 176 healthy individuals produced strong evidence that smoking marijuana increases the likelihood of developing cancer of the head or neck, and that the more marijuana smoked, the greater the increase. A statistical analysis of the data suggested that marijuana smoking doubled or tripled the risk of these cancers.

Marijuana has the potential to promote cancer of the lungs and other parts of the respiratory tract because it contains irritants and carcinogens. In fact, marijuana smoke contains 50 percent to 70 percent more carcinogenic hydrocarbons than does tobacco smoke. It also produces high levels of an enzyme that converts certain hydrocarbons into their carcinogenic form, levels that may accelerate the changes that ultimately produce malignant cells. Marijuana users usually

inhale more deeply and hold their breath longer than tobacco smokers do, which increases the lungs' exposure to carcinogenic smoke. These facts suggest that, puff for puff, smoking marijuana may increase the risk of cancer more than smoking tobacco does.

Some adverse health effects caused by marijuana may occur because THC impairs the immune system's ability to fight off infectious diseases and cancer. In laboratory experiments that exposed animal and human cells to THC or other marijuana ingredients, the normal disease-preventing reactions of many of the key types of immune cells were inhibited.⁵ In other studies, mice exposed to THC or related substances were more likely than unexposed mice to develop bacterial infections and tumors.

One study has indicated that a person's risk of heart attack during the first hour after smoking marijuana is four times his or her usual risk. The researchers suggest that a heart attack might occur, in part, because marijuana raises blood pressure and heart rate and reduces the oxygen-carrying capacity of blood.

How does marijuana use affect school, work, and social life?

Students who smoke marijuana get lower grades and are less likely to graduate from high school, compared with their non-smoking peers.^{6, 14}

Workers who smoke marijuana are more likely than their co-workers to have problems on the job. Several studies have associated workers' marijuana smoking with increased absences, tardiness, accidents, workers' compensation claims, and job turnover. A study among postal workers found that employees who tested positive for marijuana on a pre-employment urine drug test had 55 percent more industrial accidents, 85 percent more injuries, and a 75-percent increase in absenteeism compared with those who tested negative for marijuana use.

Depression, anxiety, and personality disturbances are all associated with marijuana use. Research clearly demonstrates that marijuana use has the potential to cause problems in daily life or make a person's existing problems

worse. Because marijuana compromises the ability to learn and remember information, the more a person uses marijuana the more

The Science of Medical Marijuana

THC, the main active ingredient in marijuana, produces effects that potentially can be useful for treating a variety of medical conditions. It is the main ingredient in an oral medication that is currently used to treat nausea in cancer chemotherapy patients and to stimulate appetite in patients with wasting due to AIDS. Scientists are continuing to investigate other potential medical uses for cannabinoids.²²

Research is underway to examine the effects of smoked marijuana and extracts of marijuana on appetite stimulation, certain types of pain, and spasticity due to multiple sclerosis. However, the inconsistency of THC dosage in different marijuana samples poses a major hindrance to valid trials and to the safe and effective use of the drug. Moreover, the adverse effects of marijuana smoke on the respiratory system³ will offset the helpfulness of smoked marijuana for some patients. Finally, little is known about the many chemicals besides THC that are in marijuana, or their possible deleterious impact on patients with medical conditions.

Health Consequences of Marijuana Abuse

Acute (present during intoxication)

- Impairs short-term memory
- Impairs attention, judgment, and other cognitive functions
- Impairs coordination and balance
- Increases heart rate

Persistent (lasting longer than intoxication, but may not be permanent)

- Impairs memory and learning skills

Long-term (cumulative, potentially permanent effects of chronic abuse)

- Can lead to addiction
- Increases risk of chronic cough, bronchitis, and emphysema
- Increases risk of cancer of the head, neck, and lungs

he or she is likely to fall behind in accumulating intellectual, job, or social skills. In one study of cognition, adults were matched on the basis of their performance in the 4th grade on the Iowa Test of Basic Skills. They were evaluated on a number of cognitive measures including the 12th-grade version of the Iowa Test. Those who were heavy marijuana smokers scored significantly lower on mathematical skills and verbal expression than nonsmokers.

Moreover, research has shown that marijuana's adverse impact on memory and learning can last for days or weeks after the acute effects of the drug wear off.¹⁶ For example, a study of 129 college students found that among heavy users of marijuana—those who smoked the drug at least 27 of the preceding 30 days—critical skills related to attention, memory, and learning were significantly impaired, even after they had not used the drug for at least 24 hours.¹⁰ The heavy marijuana users in the study had more trouble sustaining and shifting their attention and in registering, organizing, and using information than did the study participants who had used marijuana no more than 3 of the previous 30 days. As a result, someone who smokes marijuana once daily may be functioning at a reduced intellectual level all of the time. More recently, the same researchers showed that a group of long-term heavy marijuana users' ability to recall words from a list was impaired 1 week following cessation of marijuana use, but returned to normal by 4 weeks.¹⁶ An implication of this finding is that even after long-term heavy marijuana use, if an individual quits marijuana use, some cognitive abilities may be recovered.

Another study produced additional evidence that marijuana's effects on the brain can cause cumulative deterioration of critical life skills in the long run. Researchers gave students a battery of tests measuring problem-solving and emotional skills in 8th grade and again in 12th grade. The results showed that the students who were already drinking alcohol plus smoking marijuana in 8th grade started off slightly behind their peers, but that the distance separating these two groups grew significantly by their senior year in high school. The analysis linked marijuana use, independently of alcohol use, to reduced capacity for self-reinforcement, a group of psychological skills that enable individuals to maintain confidence and persevere in the pursuit of goals.

Marijuana users themselves report poor outcomes on a variety of measures of life satisfaction and achievement. A recent study compared current and former long-term heavy users of marijuana with a control group who reported smoking cannabis at least once in their lives, but not more than 50 times. Despite similar education and incomes in their families of origin, significant differences were found in educational attainment and income between heavy users and the control group: fewer of the cannabis users completed college and more had household incomes of less than \$30,000. When asked how marijuana affected their cognitive abilities, career achievements, social lives, and physical and mental health, the overwhelming majority of heavy cannabis users reported the drug's deleterious effect on all of these measures.

Can marijuana use during pregnancy harm the baby?

Research has shown that some babies born to women who used marijuana during their pregnancies display altered responses to visual stimuli, increased tremulousness, and a high-pitched cry, which may indicate problems with neurological development. During the preschool years, marijuana-exposed children have been observed to perform tasks involving sustained attention and memory more poorly than nonexposed children do.¹⁷ In the school years, these children are more likely to exhibit deficits in problem-solving skills, memory, and the ability to remain attentive.¹⁷

Is marijuana use addictive?

Long-term marijuana use can lead to addiction for some people; that is, they use the drug compulsively even though it often interferes with family, school, work, and recreational activities. According to the 2003 National Survey on Drug Use and Health (NSDUH), an estimated 21.6 million Americans aged 12 or older were classified with substance dependence or abuse (9.1 percent of the total population). Of the estimated 6.9 million Americans classified with dependence on or abuse of illicit drugs, 4.2 million were dependent on or abused marijuana. In 2002, 15 percent of people entering drug abuse treatment programs reported that marijuana was their primary drug of abuse.

Along with craving, withdrawal symptoms can make it hard for long-term marijuana smokers to stop using the drug.¹⁵ People trying to quit report irritability, difficulty sleeping, and anxiety. They also display increased

The Body's Natural THC-Like Chemicals

THC owes many of its effects to its similarity to a family of chemicals called the *endogenous cannabinoids*, which are natural *Cannabis*-like chemicals. Because a THC molecule is shaped like these endogenous cannabinoids, it interacts with the same receptors on nerve cells, the cannabinoid receptors, that endogenous cannabinoids do, and it influences many of the same processes. Research has shown that the endogenous cannabinoids help control a wide array of mental and physical processes in the brain and throughout the body, including memory and perception, fine motor coordination, pain sensations, immunity to disease, and reproduction.

When someone smokes marijuana, THC overstimulates the cannabinoid receptors, leading to a disruption of the endogenous cannabinoids' normal function. This overstimulation produces the intoxication experienced by marijuana smokers. Over time, it may alter the function of cannabinoid receptors, which, along with other changes in the brain, can lead to withdrawal symptoms and addiction.^{20, 21}

aggression on psychological tests, peaking approximately 1 week after they last used the drug.

In addition to its addictive liability, research indicates that early exposure to marijuana can increase the likelihood of a lifetime of subsequent drug problems. A recent study of over 300 fraternal and identical twin pairs, who differed on whether or not they used marijuana before the age of 17, found that those who had used marijuana early had elevated rates of other drug use and drug problems later on, compared with their twins, who did not use marijuana before age 17. This study re-emphasizes the importance of primary prevention by showing that early drug initiation is associated with increased risk of later drug problems, and it provides more evidence for why preventing marijuana experimentation during adolescence could have an impact on preventing addiction.¹⁸

What treatments are available for marijuana abusers?

Treatment programs directed solely at marijuana abuse are rare, partly because many who use marijuana do so in combination with other drugs, such as cocaine and alcohol. However, with more people seeking help to control marijuana abuse, research has focused on ways to overcome problems with abuse of this drug.

One study of adult marijuana users found comparable benefits from a 14-session cognitive-behavioral group treatment and a 2-session individual treatment that included motivational interviewing and advice on ways to reduce marijuana use. Participants were mostly men in their early thirties who had smoked marijuana daily for over 10 years. By increasing

patients' awareness of what triggers their marijuana use, both treatments sought to help them devise avoidance strategies. Use, dependence symptoms, and psychosocial problems decreased for at least 1 year after both treatments. About 30 percent of users were abstinent during the last 3-month followup period. Another study suggests that giving patients vouchers for abstaining from marijuana can improve outcomes.¹⁹ Vouchers can be redeemed for such goods as movie passes, sports equipment, or vocational training.

No medications are now available to treat marijuana abuse. However, recent discoveries about the workings of THC receptors have raised the possibility that scientists may eventually develop a medication that will block THC's intoxicating effects. Such a medication might be used to prevent relapse to marijuana abuse by reducing or eliminating its appeal.

Where can I get further scientific information about marijuana?

To learn more about marijuana and other drugs of abuse, contact the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1-800-729-6686. Information specialists are available to help you locate information and resources.

Fact sheets, including *InfoFacts*, on the health effects of marijuana, other drugs of abuse, and other drug abuse topics are available on the NIDA Web site (www.drugabuse.gov), and can be ordered free of charge in English and Spanish from NCADI at www.health.org.



Glossary

Addiction: A chronic, relapsing disease characterized by compulsive drug-seeking and abuse and by long-lasting chemical changes in the brain.

Cannabinoids: Chemicals that help control mental and physical processes when produced naturally by the body and that produce intoxication and other effects when absorbed from marijuana.

Carcinogen: Any substance that causes cancer.

Dopamine: A brain chemical, classified as a neurotransmitter, found in regions of the brain that regulate movement, emotion, motivation, and pleasure.

Hippocampus: An area of the brain crucial for learning and memory.

Hydrocarbon: Any chemical compound containing only hydrogen and carbon.

Psychoactive: Having a specific effect on the mind.

THC: Delta-9-tetrahydrocannabinol; the main active ingredient in marijuana, which acts on the brain to produce its effects.

Withdrawal: Symptoms that occur after use of a drug is reduced or stopped.

Access information on the Internet

- What's new on the NIDA Web site
- Information on drugs of abuse
- Publications and communications (including NIDA NOTES)
- Calendar of events
- Links to NIDA organizational units
- Funding information (including program announcements and deadlines)
- International activities
- Links to related Web sites (access to Web sites of many other organizations in the field)

NIDA Web Sites
www.drugabuse.gov
www.marijuana-info.org
www.steroidabuse.org
www.clubdrugs.org

NCADI
 Web Site: www.health.org
 Phone No.: 1-800-729-6686

References

- ¹Johnston, L.D.; O'Malley, P.M.; and Bachman, J.G. *Monitoring the Future: National Results on Adolescent Drug Use, Overview and Key Findings, 2004*. NIH Pub. No. 05-5506. Bethesda, MD: NIDA, NIH, DHHS, 2005.
- ²Substance Abuse and Mental Health Services Administration. *Results from the 2003 National Survey on Drug Use and Health: National Findings*. NHSDA Series H-25. DHHS Pub. No. (SMA) 04-3964. Rockville, MD: DHHS, 2004.
- ³Tashkin, D.P. Pulmonary complications of smoked substance abuse. *West J Med* 152:525-530, 1990.
- ⁴Heishman, S.J.; Arasteh, K.; and Sitzer, M.L. Comparative effects of alcohol and marijuana on mood, memory, and performance. *Pharmacol Biochem Behav* 58:93-101, 1997.
- ⁵Adams, J.B.; and Martin, B.R. Cannabis: Pharmacology and toxicology in animals and humans. *Addiction* 91:1585-1614, 1996.
- ⁶Brook, J.S.; Balka, E.B.; and Whiteman, M. The risks for late adolescence of early adolescent marijuana use. *Am J Public Health* 89(10):1549-1554, 1999.
- ⁷ElSohly, M.A.; Ross, S.A.; Mehmedic, Z.; Ararat, R.; Yi, B.; and Banahan, B. Potency trends of delta-9-THC and other cannabinoids in confiscated marijuana from 1980-1997. *J Forensic Sci* 45(1):24-30, 2000.
- ⁸Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *Emergency Department Trends From DAWN: Final Estimates 1995-2002*. DAWN Series D-24. DHHS Pub. No. (SMA) 03-3780. Rockville, MD: SAMHSA, 2003.
- ⁹National Institute of Justice, Arrestee Drug Abuse Monitoring Program. *Preliminary Data on Drug Use & Related Matters Among Adult Arrestees & Juvenile Detainees, 2002*. Washington, DC: U.S. Department of Justice, 2002.
- ¹⁰Pope, H.G.; and Yurgelun-Todd, D. The residual cognitive effects of heavy marijuana use in college students. *JAMA* 275(7):521-527, 1996.
- ¹¹Cimbura, G.; Lucas, D.M.; Bennett, R.C.; and Donelson, A.C. Incidence and toxicological aspects of cannabis and ethanol detected in 1,394 fatally injured drivers and pedestrians in Ontario (1982-1984). *J Forensic Sci* 35:1035-1041, 1990.
- ¹²National Highway Traffic Safety Administration (NHTSA) Notes. Marijuana and alcohol combined severely impede driving performance. *Annals Emer Med* 35(4):398-399, 2000.
- ¹³Ford, D.E.; Vu, H.T.; and Anthony, J.C. Marijuana use and cessation of tobacco smoking in adults from a community sample. *Drug Alc Depend* 67:243-248, 2002.
- ¹⁴Lynskey, M.; and Hall, W. The effects of adolescent cannabis use on educational attainment: A review. *Addiction* 95(11):1621-1630, 2000.
- ¹⁵Budney, A.J.; Moore, B.A.; Vandrey, R.G.; and Hughes, J.R. The time course and significance of cannabis withdrawal. *J Abnorm Psychol* 112(3):393-402, 2003.
- ¹⁶Pope, H.G.; Gruber, A.J.; Hudson, J.L.; Huestis, M.A.; and Yurgelun-Todd, D. Neuropsychological performance in long-term cannabis users. *Arch Gen Psychiatry* 58(10):909-915, 2001.
- ¹⁷Fried, P.A.; and Smith, A.M. A literature review of the consequences of prenatal marijuana exposure: An emerging theme of a deficiency in aspects of executive function. *Neurotoxicology and Teratology* 23(1): 1-11, 2001.
- ¹⁸Lynskey, M.T.; Heath, A.C.; Bucholz, K.K.; Slutske, W.S.; Madden, P.A.F.; Nelson, E.C.; Statham, D.J.; and Martin, N.G. Escalation of drug use in early-onset cannabis users vs. co-twin controls. *JAMA* 289:427-433, 2003.
- ¹⁹Budney, A.J.; Higgins, S.T.; Radonovich, K.J.; and Novy, P.L. Adding voucher-based incentives to coping skills and motivational enhancement improves outcomes during treatment for marijuana dependence. *J Consult Clin Psychol* 68(6):1051-1061, 2000.
- ²⁰Maldonado, R.; and de Fonseca, F.R. Cannabinoid addiction: Behavioral models and neural correlates. *J Neuroscience* 22(9):3326-3331, 2002.
- ²¹Breivogel, C.S.; Scates, S.M.; Beletskaya, I.O.; Lowery, O.B.; Aceto, M.D.; and Martin, B.R. The effects of delta-9 tetrahydrocannabinol physical dependence on brain cannabinoid receptors. *Euro J Pharmacology* 459:139-150, 2003.
- ²²Piomelli, D.; Guffrida, A.; Calignano, A.; and Rodriguez de Fonseca, F. The endocannabinoid system as a target for therapeutic drugs. *TIPS* 21:218-224, 2000.

NIDA
 NATIONAL INSTITUTE
 ON DRUG ABUSE

NIH Publication Number 05-3859
 Printed October 2002, Reprinted March 2003,
 Printed July 2005.
 Feel free to reprint this publication.

THE HARMFUL EFFECTS OF MARIJUANA

BRAIN & CENTRAL NERVOUS SYSTEM IMPAIRED THINKING, MOOD, MEMORY, AND COORDINATION

- Marijuana (THC) is an extremely powerful and pleasurable intoxicant. It affects, alters, and damages brain cells controlling thinking, emotion, pleasure, coordination, mood, and memory. The pituitary gland is also damaged which regulates hunger, thirst, blood pressure, sexual behavior, and release of sex hormones.
- CLOGGED SYNAPSES, BRAIN DAMAGE, AND ADDICTION**
- Marijuana accumulates in the microscopic spaces between nerve cells in the brain—called "synapses." This clogging interferes by slowing and impairing transfer of critical information.
- Long term use causes the brain to stop production of brain chemicals necessary to "feel good"—a negative feedback condition. And, the user becomes chemically addicted to marijuana.

HEART

- Speeds up heartbeat as much as 50%, increases blood pressure, and poses great risk to those with hypertension and heart disease.

ENDOCRINE SYSTEM

- Marijuana damages the network of glands, organs, and hormones involved in growth and development, energy levels, and reproduction.

ORGANS AND GLANDS AFFECTED:

- Pituitary Gland
- Thyroid Gland
- Stomach
- Duodenum
- Pancreas
- Adrenal Glands
- Testis

REPRODUCTIVE SYSTEM MALES & FEMALES

- Marijuana use can decrease and degenerate sperm, sperm count, movement, and cause lowered sex drive. Females can have egg damage, suppression of ovulation, disrupt menstrual cycles, and alteration of hormone levels.

PREGNANCY & UNBORN BABIES

- Regular use during pregnancy can lower birth weight and cause abnormalities similar to Fetal Alcohol Syndrome—small head, irritability, poor growth and development.

CHROMOSOME DAMAGE

- Can destroy the number of chromosomes, resulting in cell abnormalities and impaired function.

OTHER AFFECTS ON CENTRAL NERVOUS SYSTEM

- Distortions of perception, thinking, and reality
- Difficulty in forming concepts and thoughts
- Poor concentration
- Mental confusion
- Loss of motivation
- Wide mood swings
- Aggression and hostility
- Depression, anxiety, and paranoia

EYES

- Sleepy looking, blood-shot eyes with dilated pupils.

THROAT

- Irritates membranes of the esophagus; increases chance of developing cancer of larynx and esophagus.

LUNGS

- Significant damage and destruction of the air sacs of the lungs, reducing the lungs ability to bring in oxygen and remove carbon dioxide—Emphysema.
- Causes bronchial tubes to be inflamed, thickened, and to produce more mucus; resulting in narrowing of the air passages—Chronic Bronchitis.
- Marijuana smoke has twice as much "tar" as cigarette smoke and significantly increases chance of lung cancer, inflammation and infection.

IMMUNE SYSTEM

- Marijuana depresses immune systems' ability to protect itself and body against invading bacteria, viruses, chemicals, foreign particles, parasites, fungal microorganisms, infections, and decreases ability to protect and prevent growth of cancer cells throughout the body.

ORGANS AND GLANDS AFFECTED:

- Thymus
- Lymph System
- Spleen
- Stomach
- Duodenum
- Bone Marrow

Previously e-mailed

Dear City Council Members:

I and fellow Steamboat Springs medical professionals consider marijuana dispensaries bad for the health of our community and ask that you ban them.

We are not asking you to ban medical marijuana. Rather, marijuana dispensaries have no place in what should be a very limited role for marijuana in medicine. Marijuana dispensaries promulgate the misuse and abuse of marijuana. Amendment 20 made absolutely no mention of dispensaries. House Bill 1284 specifically gives municipalities the right to ban dispensaries. Marijuana dispensaries claim they are necessary for the health care needs of patients and we refute that accusation. Marijuana dispensaries are not needed for the purported health needs of individuals. Individuals who believed they needed to use marijuana for medical reasons were doing so before we had dispensaries, and will continue to do so after we ban dispensaries. Any decision to keep marijuana dispensaries should not be based on the false premise of medical legitimacy.

1. The Steamboat Springs medical community did not ask for marijuana dispensaries here and does not support them. Marijuana is currently classified as a Schedule I substance –addictive, harmful, and no medical benefit. Laboratory research has suggested some areas of potential benefit that warrant further research. But marijuana plants have not gone through the research and validation process that other medications go through in the US, Canada, or Europe. We do not know its efficacy, safety, dose ranges, potency, adverse affect profile, or have any standardization for its use. There have been few and inadequate randomized controlled trials to prove its use, which are the cornerstones of getting FDA approval for a prescription drug. This is not the way that we do medicine in the developed world. Marijuana does not cure anything. According to Ned Colange, MD the recent Colorado Public Health Officer, “No one has ever died from a lack of marijuana.”
2. Marijuana has known adverse affects on the immune system, lungs, mental health conditions, cognition, balance, the fetus/newborn of a mother who smokes marijuana, and other health related issues. Marijuana plants can contain over 400 active ingredients. Inhaling a smoke (brunt particles) fails the common sense test whether or not you have a medical degree. Studies have demonstrated more carcinogens in a joint than in some of the newer cigarettes. There is no rational argument for smoking marijuana.
3. Marijuana is addictive. The American Society of Addiction Medicine, the American Psychiatric Association, and numerous other national medical groups and addiction specialists in the US consider marijuana addictive. The medical marijuana dispensaries have been creating more potent strains of marijuana, with potentially more dangerous affects and addiction potential than before.

Previously e-mailed

4-133

4. Marijuana is bad for youth. Marijuana has negative impacts on the developing brain of children and teenagers. Youth who use marijuana have a higher rate of developing psychotic disorders as an adult.
5. Marijuana may be a gateway drug. There is some evidence to suggest that those who use marijuana are more likely than those who do not use marijuana to go to using other dangerous drugs such as cocaine. There is some debate on this subject though.
6. We have seen numerous examples of patently false and tasteless advertising for “medical” marijuana use and recreation drug use in our local newspaper by the local marijuana dispensaries. Just recently the newspaper printed an article about one of the local dispensaries getting an award at a marijuana contest. In the article the dispensary owner talks about recommending his award winning strain as “a sleep aid and for relaxation.” But Amendment 20 did not list this as a legal indication! Dispensary owners and staff are not medical professionals and are promoting their drugs for recreational use.
7. Some pot proponents argue that alcohol kills many more people, and that abuse of prescription narcotics is a major problem. Both are true, but that is a straw man argument and in no way refutes the inherent dangers of marijuana. Adding marijuana to this mix only makes things worse. Increasing the local amount of marijuana and making it easier to get only worsens our problems with substance abuse.
8. Marijuana dispensaries are bad for Steamboat business. We are seeing more workers comp cases where employees were high on pot. Employers report that they are having a harder time hiring because more applicants now tout that they smoke marijuana for medical purposes, and it is “legal here in Steamboat.” Steamboat Springs is a tourist town, and being known as “Pot Town USA” will not help attract people here or help visitors think of us as a safe or family friendly town.
9. The user statistics illustrate the false intent of many medical marijuana. Many people who voted for Amendment 20 expected only a few hundred or thousand would ever qualify for medical marijuana use. Yet according to the Colorado Medical Marijuana Registry:
 - 137, 556 new patient applications have been received to date since the registry began operating in June 2001. The great majority occurred since the opening of dispensaries.
 - Sixty-nine percent (69%) of approved applicants are male
 - The average age of all patients is 40. Currently 40 patients are minors (<18)
 - Ninety-four percent (94%) of approved applications are for “severe pain.”

Marijuana dispensaries have developed under the false pretext of medical need. Some people have embraced the sad lie that pot is safe, healthful, and a well researched medicine. They think recreational pot use is now legal in Steamboat. It is easy for the pot proponents to find some people who like to smoke marijuana, and just happen to claim it helps some medical condition of theirs. In contrast, those of us in opposition have a hard time convincing our patients who have suffered from marijuana use to come forward publicly. I now see more of these people because the presence of marijuana dispensaries have given them the belief that pot smoking is now “safe” and “therapeutic,” and now they can get pot easily in Steamboat. I can not get the pregnant mothers who smoke pot to write to you saying they are sorry for the harm they caused their unborn child. I can not get the teenagers whom I admit to the hospital high on pot to write you a letter. I can not get the young woman with a knee injury from skiing tell you she missed most of the ski season because she got some pot from a local dispensary instead of doing proven therapies for healing her knee injury. I can not get the man who committed suicide while high on pot to come alive again and tell you what a mistake he made. I can not get the gentleman with emphysema to tell you how his pot habit is only making his lung condition worse. There are many real patient stories about the abuse of medical marijuana that I wish you could hear.

Pot proponents and many pro marijuana websites make gross distortions of medical science and policy statements by national medical organizations. I provide the following references and citations so you can go to the sources and read some of the national experts yourself. The reports also contain extensive reference lists with primary research citations.

1. Institute of Medicine Report Marijuana and Medicine. (1999) Read report on line at http://books.nap.edu/openbook.php?record_id=6376&page=R1 *Contrary to distortions by pot proponents, this report does NOT endorse the routine use of medical marijuana. Rather, it stipulates that further research is needed to prove its efficacy, dosages, and safety profile. Marijuana has **potential** benefits; smoking is a crude delivery system that also delivers harmful substances; marijuana has harmful health effects; marijuana is addictive and users develop a tolerance*
2. American Society of Addiction Medicine White Paper on The Role of the Physician in “Medical” Marijuana. (Sep 2010) See attached document. *Marijuana is “widely abused and a major cause of drug dependence in the United States and around the World” and “should be subjected to the rigorous scrutiny of the FDA regulatory process.”*
3. American Psychiatric Association position statement on Marijuana as Medicine. (2009) Read summary statement at <http://www.psych.org/Departments/EDU/Library/APAOfficialDocumentsandRelated/PositionStatements/200908.aspx> *Pot proponents claims that that the APA endorses medical marijuana are false. Rather, the APA believes research is needed to prove its clinical applications, and that “given the problems inherent in using the plant material in smoked form, every effort should be made to use non-smoked routes in treatment.”*

4. American Medical Association policy statement on Medical Marijuana. (2009). Read a summary on line at <http://www.ama-assn.org/amednews/2009/11/23/prse1123.htm> *Again, this has been distorted by pot proponents who falsely claim the AMA endorses medical marijuana. The AMA and many national medical specialty groups recommend research to determine what role marijuana may have in medicine. To facilitate that, the AMA recommends that the FDA change marijuana from a Schedule I to a schedule II drug to make research easier. **Specifically, the policy "should not be viewed as an endorsement of state-based medical cannabis programs, the legalization of marijuana, or that scientific evidence on the therapeutic use of cannabis meets the current standards for a prescription drug."***
5. American Academy of Pediatrics policy statement on Legalization of Marijuana: Potential Impact on Youth. (June 2004). *Marijuana is the illicit substance most commonly abused by youth. "The AAP opposes the legalization of marijuana" and "supports rigorous research" to determine whether it "has any potential therapeutic effect." "In contrast", its adverse effects "are well known."*
6. National Institute for Drug Addiction. (Part of the National Institutes of Health). Go to <http://www.nida.nih.gov/DrugPages/Marijuana.html> for a wealth of information on the adverse health effects and addiction potential of marijuana. I have also attached the National Institute for Drug Addiction Research Report on Marijuana Abuse.

Here are some additional and recent research studies on marijuana:

Medical marijuana 2010: it's time to fix the regulatory vacuum. Cohen PJ. Journal of Law, Medicine & Ethics. 38(3):654-66, 2010 Sep. *Discusses that state statutes have been vaguely worded and that oversight of this drug needs to be brought up to the standard that we have for other controlled substances with supposed medical utility.*

Pediatric cannabinoid hyperemesis: two cases. Miller JB. Walsh M. Patel PA. Rogan M. Arnold C. Maloney M. Donnino M. Pediatric Emergency Care. 26(12):919-20, 2010 Dec. *Severe vomiting syndrome has been well described in adults using chronic marijuana. This reports details a similar syndrome in two pediatric patients using recreational marijuana.*

Sex, drugs, and cognition: effects of marijuana. Anderson BM. Rizzo M. Block RI. Pearlson GD. O'Leary DS. Journal of Psychoactive Drugs. 42(4):413-24, 2010 Dec. *This was a randomized controlled trial that found men and women had equal rates adverse effects on attention, time estimation, and visuospatial processing with acute marijuana use.*

Adolescent brain maturation, the endogenous cannabinoid system and the neurobiology of cannabis-induced schizophrenia. Bossong MG. Niesink RJ. Progress in Neurobiology. 92(3):370-85, 2010 Nov. *This*

Previously e-mailed

review article summarizes the medical evidence that shows marijuana use in adolescence is associated with the risk of developing psychotic disorders later in life.

The effects of cannabis and alcohol on simulated arterial driving: Influences of driving experience and task demand. Lenne MG. Dietze PM. Triggs TJ. Walmsley S. Murphy B. Redman JR. Accident Analysis & Prevention. 42(3):859-66, 2010 May. *This was a US Government funded study that compared marijuana and alcohol use on driving abilities, using standardized doses of both in a driving test. It found that both marijuana and alcohol impair driving ability.*

Cannabis withdrawal symptoms in non-treatment-seeking adult cannabis smokers. Levin KH. Copersino ML. Heishman SJ. Liu F. Kelly DL. Boggs DL. Gorelick DA. Drug & Alcohol Dependence. 111(1-2):120-7, 2010 Sep 1. *This study evaluated 469 adult chronic marijuana smokers who tried to quit using marijuana. 95% reported some withdrawal symptoms when quitting, and 41.5% turned to alcohol to relieve their withdrawal symptoms.*

Exposure to cannabis in popular music and cannabis use among adolescents. Primack BA. Douglas EL. Kraemer KL. Addiction. 105(3):515-23, 2010 Mar. *This was an interesting study where they surveyed 949 9th grade students at 3 urban high schools. They assessed how many references to marijuana they heard each day in music they heard. Those 9th graders in the highest tertile who heard more marijuana references were twice as likely in the next 30 days to use marijuana as those in the lowest tertile of exposure to marijuana references. This parallels the rich body of tobacco use research that demonstrates that the more youth hear a substance popularized, the more likely they are to use it.*

Systematic review and meta-analysis of cannabis treatment for chronic pain. [Review] [54 refs] Martin-Sanchez E. Furukawa TA. Taylor J. Martin JL. Pain Medicine. 10(8):1353-68, 2009 Nov. *This was a meta-analysis, combining the results of 18 trials that met inclusion criteria. The authors concluded: "Currently available evidence suggests that cannabis treatment is moderately efficacious for treatment of chronic pain, but beneficial effects may be partially (or completely) offset by potentially serious harms. More evidence from larger, well-designed trials is needed to clarify the true balance of benefits to harms."*

Respectfully:

Brian Harrington, MD, MPH, FAAFP

Board Certified Family Physician

Routt County Public Health Officer

Previously e-mailed

4-137

Previously e-mailed

Level II Accredited Provider, Colorado Division of Worker's Compensation

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
Akron	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Alamosa	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Aurora	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Avon	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Bayfield	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Berthoud	Regulation of MMJ Centers, Cultivation, and Manufacturers			ADOPTED+				
Boulder	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Bow Mar	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Breckenridge	Regulation of MMJ Centers, Cultivation, and Manufacturers Regulation of Homegrows		ADOPTED+	ADOPTED+				
Brighton	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Broomfield	Prohibition of MMJ Centers, Cultivation, and Manufacturers Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		ADOPTED^ PASS					
Buena Vista	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Calhan	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Canyon City	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Carbondale	Regulation of MMJ Centers, Cultivation, and Manufacturers			ADOPTED+				
Castle Pines North	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Castle Rock	Prohibition of MMJ Centers, Cultivation, and Manufacturers Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		ADOPTED^	PASS				
Cherry Hills Village	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Cokedale	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Colorado Springs	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Creede	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
De Beque	Shall Permit MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$50,000 by taxing \$5 per MMJ transaction?		FAIL PASS					
Denver	Regulation of MMJ Centers, Cultivation, and Manufacturers			ADOPTED+				
Delta	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Dillon	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Dinosaur	Shall Permit MMJ Centers, Cultivation, and Manufacturers?		FAIL					

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
Durango	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Eagle	Regulation of MMJ Centers, Cultivation, and Manufacturers Prohibition of MMJ Centers, Cultivation, and Manufacturers	ADOPTED+		ADOPTED^				
Erie	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Elizabeth	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Fairplay	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Federal Heights	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Florence	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Fountain	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Foxfield	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Fraser	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$100,000 by imposing 5% gross tax on sale MMJ paraphernalia, products?		FAIL PASS					
Fruita	Shall taxes be increased by \$100,000 adopting a 5% medical marijuana and paraphernalia tax on the price paid to be used for enforcement?	PASS						
Ft. Collins	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Ft. Morgan	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Granby	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$100,000 by imposing 5% gross tax on sale MMJ paraphernalia, products?		PASS PASS					
Grand Junction	Prohibition of MMJ Centers, Cultivation, and Manufacturers Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		ADOPTED^	PASS				
Grand Lake	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Greeley	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Greenwood Village	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Hayden	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Hillrose	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Hot Sulphur Springs	Shall Allow MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$100,000 by imposing 5% gross tax on sale MMJ paraphernalia, products?		FAIL FAIL					

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
Hotchkiss	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Illif	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Jamestown	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Kersey	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Kiowa	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
La Junta	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Lafayette	Regulation of MMJ Centers, Cultivation, and Manufacturers			ADOPTED+				
Lake City	Shall Allow MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Larkspur	Shall Prohibit MMJ Centers? Shall Prohibit Cultivation Operations? Shall Prohibit MMJ Infused Product Manufacturers?			PASS PASS PASS				
Las Animas	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Log Lane Village	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Lone Tree	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Louisville	Extension of Moratorium to 4/30/2011			ADOPTED				
Loveland	Shall Allow MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Manitou	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Milliken	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Minturn	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Moffat	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Montrose	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Mountain View	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
New Castle	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
Olathe	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Otis	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Ouray	Shall Allow MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Palisade	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Paonia	Shall Allow MMJ Centers? Shall Allow Cultivation and Manufacturers? If MMJ Centers Allowed, shall there be a 2% tax?		FAIL FAIL PASS					

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
Parker	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Peetz	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Poncha Springs	Shall allow MMJ Centers? Shall allow MMJ Manufacturers? Shall allow MMJ Cultivation Oporations?			FAIL FAIL FAIL				
Pueblo	Shall taxes be increased \$500,000 by imposing 4.3% gross tax on sale MMJ paraphernalia, products?		PASS					
Ramah	Shall Permit MMJ Centers, Cultivation, and Manufacturers?		FAIL					
Rocky Ford	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Silver Cliff	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Silverton	Regulation of MMJ Centers, Cultivation, and Manufacturers		ADOPTED+					
Simla	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Sugar City	Shall Prohibit MMJ Centers, Cultivation, and Manufacturers? Shall taxes be increased \$100,000 by imposing 5% gross tax on sale MMJ paraphernalia, products?		PASS PASS					
Superior	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Trinidad	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Vail	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Wellington	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Westcliffe	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Westminster	Prohibition of MMJ Centers, Cultivation, and Manufacturers		ADOPTED^					
Windsor	Shall adopt ordinance to Prohibit MMJ Centers, Cultivation, and Manufacturers?		PASS					
Woodland Park	Prohibition of MMJ Centers, Cultivation, and Manufacturers			ADOPTED^				
TOTALS	Local Opt-Out Ballot Questions Results: Prohibit:	0	25	8				
	Allow:	<u>1</u>	<u>2</u>	<u>0</u>				
	Totals	1	27	8	0	0	0	0
	Council Action to Prohibit:	0	33	9	0	0	0	0
	Council Action to Regulate:	<u>1</u>	<u>15</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	Totals	1	48	14	0	0	0	0

Appendix B: Municipal Actions & Elections

Table 5: Medical Marijuana Prohibition and Taxation: 2009- April 2011

Municipality	Type of Issue	2009	2010	2011	2012	2013	2014	2015
	CUMULATIVE <u>ELECTION</u> TOTALS:	CUMULATIVE <u>COUNCIL ACTION</u> TOTALS:						
	Prohibit 33	Prohibit 42						
	Allow 3	Allow 21						
	TOTAL 36 (91.7% prohibition rate)	TOTAL 63 (66.7% prohibition rate)						

^ Prohibition adopted by council action

+ Regulations adopted by council action

Anja Tribble

From: Julie Franklin
Sent: Friday, May 13, 2011 9:01 AM
To: City Council
Cc: Anja Tribble
Subject: FW: [City Council] Marijuana Dispensary dicussions

-----Original Message-----

From: Julie Franklin
Sent: Wednesday, May 11, 2011 10:58 AM
To: 'karl.gills@yvmc.org'
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: [City Council] Marijuana Dispensary dicussions

Karl,
Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of karl.gills@yvmc.org
Sent: Wednesday, May 11, 2011 9:48 AM
To: Julie Franklin; Anja Tribble
Subject: [City Council] Marijuana Dispensary dicussions

Karl Gills sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I understand that a discussion regarding the status of dispensaries is to be on the upcoming council agenda. Please consider the following information in your discussion. Thank you.

Karl Gills

YAMPA VALLEY MEDICAL CENTER
MEMORANDUM

TO: Steamboat Springs City Council
FROM: Karl B. Gills, CEO
DATE: May 11, 2011
SUBJECT: Marijuana Dispensaries

I provide this information as you consider banning marijuana dispensaries in Steamboat Springs. From April 2009 through March 2010 we did 280 drug screens at Yampa Valley Medical Center for a variety of reasons, such as ER visits for intoxication or suicide attempts, and workers comp screenings. During this time period 94, or 33.6% were positive for marijuana. During the subsequent year from April 2010 to March 2011 we did 263 drug screens and 102 were positive, for a rate of 38.8%.

Thus during the period that marijuana dispensaries have been open in Steamboat Springs Yampa Valley Medical Center has seen a 5.2% increase in positive drug screenings for

Previously e-mailed

marijuana. YVMC is quite concerned with the high and increasing rate of marijuana usage that appears to be a part of reasons for visits to our Emergency Department.

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Wednesday, May 11, 2011 2:06 PM
To: Brenda Ehrlich
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: Medical Marijuana

Brenda,
Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

From: Brenda Ehrlich [mailto:steamboat3260@comcast.net]
Sent: Wednesday, May 11, 2011 2:03 PM
To: City Council
Subject: Medical Marijuana

City Council:

I am writing to voice my opinion about medical marijuana in Steamboat. I have three daughters age 23, 20 and 9. My older daughters come to visit two or three times a year, they usually fly into Hayden and I pick them up at the airport. The last time my oldest daughter came to visit (March), her plane was delayed til after midnight. She said she had a ride with some people she met on the plane and I should not pick her up. When she arrived, she told me a story about two young men she was riding in the car with. She said they were very nice, average young 20 something guys. They asked her if she minded if they smoked (marijuana) in the car. She said "You mean while you're driving?" The said "yes". She said "Absolutely I mind".

This is an example of how the easy access to marijuana affects all of us. With more people on the road using marijuana, our highways are less safe for everyone. Another thing I've been noticing is the smell of marijuana in various hotel rooms and hallways when I've been travelling within the state. I always request a non-smoking room and there have been occasions in past years where I knew someone had been smoking in the room, but only this year have I been noticing the smell of marijuana in the hotels I've been staying at. Something needs to be done to limit marijuana use to the people who need it for medicine. It seems to be everywhere now.

I would urge you to do everything you can to limit the amount of marijuana available in Steamboat.

Thank you,

Brenda Ehrlich

Previously e-mailed

4-146

5/13/2011

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Wednesday, May 11, 2011 4:06 PM
To: Claudia Droel
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: Marijuana dispensaries

Rodger and Claudia,
Thank you for your comment. City Council has received it and it has been forwarded to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

From: Claudia Droel [mailto:cdroel@gmail.com]
Sent: Wednesday, May 11, 2011 3:45 PM
To: City Council
Subject: Marijuana dispensaries

Dear City Council Members,

We are writing to urge you to take strong action to limit the marijuana dispensaries which seem to be getting rapidly out of control. We chose Steamboat as our permanent retirement home because out of all the winter resort towns we visited, Steamboat was the only one with a really strong family friendly environment.

We are grandparents and look forward to having our children and grandchildren spend time with us. Now, with full-page ads treating marijuana as just another form of recreation, we feel the community is changing in ways unacceptable to us. We are sure many families here on visits feel as we do.

We understand some people have legitimate medical needs for marijuana. But these people know who they are. They do not need full-page ads in the daily newspaper. The ads are obviously aimed at recreational users. Other communities have come up with ways to limit the cynical exploitation of loopholes in current law. Steamboat should do the same.

We understand there are complex issues involved. It would be easy to just "go with the flow" and hope for the best. But the long-term implications for the community are serious. Please consider imposing restrictions that will prevent our community from turning into a mecca for people seeking easy access to recreational drugs.

Thank you for your consideration.

Sincerely

Rodger and Claudia Droel
1222 Ridge View Dr.
Steamboat Springs 80487

Previously e-mailed

4-147

5/13/2011

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Thursday, May 12, 2011 3:16 PM
To: Bettiann Carrell
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: marijuana disp

Bettiann,
Thank you for your comment. City Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

From: Bettiann Carrell [mailto:bcarrell@sssd.k12.co.us]
Sent: Thursday, May 12, 2011 12:57 PM
To: City Council
Cc: Lara Craig
Subject: marijuana disp

City Council:

I have rather strong opinions regarding the dispensaries in our community. Personally, I see it as a step backward in what educators, parents, and other community members have been so strongly advocating, which is the total abstinence of any illegal usage of drugs. It is not a small minority, but a rather large minority that is engaging in this illegal usage, and it's definitely growing at an alarming rate.

I was inflamed at one of the owners who so wrongly attacked Mr. Kaminski, for voicing what is a common feeling amongst many of us, at a previous meeting. Many of the ads are inflammatory and misleading and one would be hard pressed to admit anything different.

I work with this community's children on a daily basis, and therefore am privy to direct knowledge of what some of these students are doing. Most frightening is the change in their attitudes that "doing pot is absolutely no big deal." Who is addressing the hundreds of toxic chemicals that one ingests each time one lights up? I see these as a blemish on an otherwise pristine community. I also do not enjoy being bombarded by full page ads or radio commercials that make this usage sound enticing to our youth, but that is a personal issue of mine.

Respectfully submitted,
Bettiann Carrell

Previously e-mailed

4-148

5/13/2011

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Friday, May 13, 2011 9:05 AM
To: Wharton Family
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: Medical Marijuana

Amy,

Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.

Sincerely,
Julie Franklin
City Clerk

From: Wharton Family [mailto:pbjwharton@comcast.net]
Sent: Thursday, May 12, 2011 9:38 PM
To: City Council
Subject: Medical Marijuana

As a parent of three boys in the community of Steamboat Springs under the age of 18, I personally am involved with many kids of the teenage risk group. I want you to know that I feel that the risk factors outweigh the benefits of having multiple marijuana dispensaries in our community. The perception has grown that pot is "no-big-deal" that scares me as a parent and one who cares deeply for my children, their friends and our community as a whole. Perception is the beginning of experimenting which leads to regular use and on to addiction.

My understanding is that those who are medically qualified to use legal marijuana can obtain a prescription from a reputable doctor and have it filled at a pharmacy like the rest of us do for our controlled substances or prescriptions. Please consider the impact presented tonight to address the issue before it becomes a major problem with our youth and our community.

Respectfully,
Amy Wharton

[Amy Wharton](#)

Previously e-mailed

4-149

5/13/2011

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Friday, May 13, 2011 9:12 AM
To: Julie Ernst
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: Medical Marijuana Dispensary Letter

Julie,
 Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.
 Sincerely,
 Julie Franklin
 City Clerk

From: Julie Ernst [mailto:juliaernst@comcast.net]
Sent: Friday, May 13, 2011 7:21 AM
To: City Council
Subject: Medical Marijuana Dispensary Letter

Subject: Medical Marijuana Dispensary Letter

I realize there are several emails circulating which address this issue. This email goes into some of the details surrounding this issue. If you have already contacted City Council great. If you are interested in more information on this issue please read below.

The question addressed in this email is: Do the benefits of medical marijuana dispensaries in our community outweigh the risks? I would propose that they do not and think it is imperative that those of us that feel this way let our City Council members know how we feel.

House Bill 1284 which was passed and signed into law in 2010 gave local municipalities the authority to ban dispensaries. Since that time numerous communities in Colorado including; Grand Junction, Castle Rock, Superior, Hayden, Kremmling, Broomfield have implemented such bans.

There has been talk in the past week of the Federal Government getting involved to address this issue with an anticipated outcome of putting an end to the current "dispensary model". I believe that our community represented by our council would be best served not by taking a wait and see approach but rather by taking a stand on this issue. I believe the current state of this "dispensary model" was not what was intended when Amendment 20 was passed. The impact this "dispensary model" has had on our community and the message it sends to our youth in particular is unacceptable. It is difficult to predict the exact outcome and time frame of what will take place at a federal level. Putting this issue off not only allows the current state of affairs to go on for who knows how long but by not acting we also miss the critical opportunity to send a clear message that the current "dispensary model" and what it represents is not what Steamboat Springs wants. Whether this is addressed by a council vote or a community wide vote it must be addressed and the time is now.

Previously e-mailed

4-150

5/13/2011

Previously e-mailed

City Council will address this issue at their meeting May 17th in Citizens' Hall, 124 10th St. at 5 pm. Please attend this meeting if you are able. Whether you are able to attend or not send an email to your city council persons letting them now how you feel. It is critical that they hear from you so they are best able to represent their constituents.

citycouncil@steamboatsprings.net

Below is additional information that addresses some of the specific issues that have been raised.

If you do not have time to read further PLEASE FORWARD THIS EMAIL to others who may have an interest in this issue.

HOW WE GOT WHERE WE ARE

I have to admit when the dispensaries started opening up in our community several years ago and ads started showing up in the paper I was not clear as to why all of the sudden this was happening. I thought to myself, "Did we vote again and I just didn't realize it?" I recalled Amendment 20 being passed in 2000 that made medical marijuana legal in the state of Colorado. My understanding was that a small number of individuals with specific illnesses would through their primary physician be able to get a license to grow their own limited number of plants for their own personal use. It seemed that from 2000 to 2009 this new amendment had very limited impact on our community.

It was brought to my attention last month when the issue was raised at City Council to consider a ban on dispensaries that there had been a significant shift which had occurred in 2009 regarding how Amendment 20 was being interpreted in our state. This shift seems to have resulted from a 2009 Department of Justice memo which described a relaxation of the enforcement of federal drug laws related to medical marijuana use (it is illegal at a federal level) and a ruling by the state health board in 2009 which rejected a proposed limit on the number of patients a caregiver can supply with medicinal marijuana. The end result was dispensaries which supply marijuana to 100s of individuals began popping up all over the state. Towns scrambled to regulate the industry and in many instances to limit the number of dispensaries which could operate in their communities. The number of medical marijuana licences issued rose dramatically and the "dispensary model" took hold.

Once dispensaries opened I believe the entire face of this issue changed. Much of this change was caused by an influx of medical doctors whom the dispensaries approached. These doctors who in many cases had come to town for a weekend or a day issued prescriptions to "patients" that they had met on one occasion in a hotel room or prior to a change in the law at the dispensary. These licenses then allow the patient to receive their allotted amount of marijuana once a month for 1 year with no further follow up needed. I often wonder what percentage of patients who see

Previously e-mailed

4-151

5/13/2011

Previously e-mailed

these providers are turned down. It seems to me almost most everyone receives a license. As one license holder said to me, "Oh no, I don't have back pain. I just had to say that to get my license."

Along with dispensaries and the huge increase in license holders came a shift in the impact medical marijuana has on our community not the least of which is full page color ads that read like pages out of Willy Wonka and The Chocolate Factory.

THE IMPACT OF DISPENSARIES ON OUR COMMUNITY AND OUR CHILDREN IN PARTICULAR

AVAILABILITY: With the considerable number of license holders there is simply more marijuana in our community. I think it would be difficult to argue against the fact that the amount of marijuana in our community has increased substantially and with increased saturation of the drug comes increased availability to individuals of all ages with or without a license.

ACCEPTABILITY :The "dispensary model" exposes the youth of our community, including the very young, to the belief that marijuana is neither harmful nor addictive and is really no big deal. The question is not whether marijuana is better or worse than alcohol or prescription drugs, that is an entirely different debate. The problem is that marijuana is being billed as "medicinal" but is playing by an entirely different set of rules than other prescription drugs. Though other prescription drugs may be over prescribed and are certainly an issue in our community access to these drugs is entirely different than what is taking place with marijuana. I imagine we would all be up in arms if there were doctors coming to town on weekends to write multiple prescriptions for an entire year of Vicoden or Percocet to individuals they were meeting for the first time with no plan in place for follow up. Add to this dispensaries that sold percocet infused brownies and we would go up for grabs. If marijuana truly is to be "medicinal" it should be playing by the same rules as other medicinal drugs. The ease of access to a medicinal marijuana prescription coupled with the bakery/candy store presentation of dispensaries and their extensive advertising blurs any clear picture as to if this drug is truly medicinal or simply recreational. It is this mixed message which I believe is most dangerous to our youth.

PERCEPTION: Steamboat bills itself as a world class resort; "Ski Town USA" Are full page color adds plastered all over our daily papers advertising the likes of "Cheeba chews, Kandy Kush and Fridays as Free Keef Cola day" best representing our community? A family friend visiting from Boston was incredulous as to how this was happening in our community. I share her sentiment.

I have heard the argument that it is up to parents to raise their children in such a way that they will make "good" choices. I aim for this in my parenting each and every day though I am not so naive as to think that my children would not benefit from barriers to potentially risky behavior.

WHAT ARE THE RISKS OF A BAN?

Arguments against a ban of dispensaries have raised the concern that all of

Previously e-mailed

4-152

5/13/2011

Previously e-mailed

these license holders will then start growing marijuana in their residences and that it will be unregulated. It is possible that some individuals may grow their own 6 plants in their own homes or may even become caregivers thereby being allowed to supply marijuana for up to 5 patients. However, this takes some level of commitment and investment which many individual who are happy to stop by the dispensary will choose to forgo. I also believe that without dispensaries we will not have doctors coming to town on a regular basis to write mass prescriptions. Based on this I would anticipate that the population of licence holders would dwindle over time and that eventually we will get closer to how things were from 2000 to 2009.

I have heard if the city bans dispensaries the dispensary in Milner would not be impacted and will become the "only show in town". I think Commissioner Monger made it clear that the county would be willing to address this issue and consider a county wide vote on this issue.

The possibility of future legal issues related to this type of ban have been raised. I do not believe that the perceived possible risk of a future legal proceeding outweighs the current risk of what is happening in our community.

It has been argued that owners of these dispensaries have invested in our community and employ a significant numbers of employees. Once again the benefits to a few do not in my mind outweigh the risks to many.

Others have suggested that all of the dispensaries will simply move to Oak Creek. I have a hard time believing that the community of Oak Creek wants to be the mecca for medical marijuana dispensaries and time will tell how they choose to approach this issue.

The most compelling argument supporting the dispensaries is that some individuals have truly benefited from them. I believe this is true for a small number of individuals though do not feel that the benefit to these few outweighs the risk to our entire community. These individuals will continue to be served by Amendment 20 without the negative impact of the dispensaries.

WHAT NOW?

It is easy to become complacent in our busy lives and hope that it all works out. I believe strongly that the present approach to this issue in our community is a far cry from what was intended when Amendment 20 was passed. The risk to our community and our children in particular is too great for us not to revisit this issue. We must decide as a community how we want this issue to be handled in our town.

I encourage you to contact your city council persons and if possible attend the city council meeting May 17th.

PLEASE FORWARD THIS EMAIL TO SPREAD THE WORD ABOUT THIS TIME CRITICAL ISSUE.

Sincerely,
Millie Flanigan

Previously e-mailed

4-153

5/13/2011

Previously e-mailed

Anja Tribble

From: Julie Franklin
Sent: Friday, May 13, 2011 9:16 AM
To: claire royer
Cc: Wendy DuBord; Jon Roberts; Tony Lettunich; Dan Foote; JD Hays; Tyler Gibbs; Anja Tribble
Subject: RE: Concerned local family

Claire and Keith,
Thank you for your comment. Council has received it and it has been sent to the appropriate staff members.
Sincerely,
Julie Franklin
City Clerk

From: claire royer [mailto:claireroyer@comcast.net]
Sent: Friday, May 13, 2011 7:54 AM
To: City Council
Subject: Concerned local family

Hello. We are a local family who has been living full time in the city of Steamboat since 1998. Our two young children go to SPE. We are active in the community. Over the past two years, we have had mounting concerns about the growth of the medical marijuana industry in our town. Our friends, neighbors and co-workers share these concerns. The radio and newspaper ads used by dispensaries has become irresponsible and egregious. The message these ads are sending to our young people is flat out dangerous. I am a nurse at a clinic here in town and the mere idea of advertising Percocet laced brownies is absurd.

We look forward to the City Council meeting on Tuesday May 17th to address this important issue. It is a priority and we trust the City Council will address it as such.

Thanks for your time.

Sincerely,

Claire and Keith Royer

Previously e-mailed

4-154

5/13/2011



ATTORNEY GENERAL OF COLORADO

John W. Suthers

April 26, 2011

Governor John Hickenlooper
Colorado State Capitol

Members of the Colorado General Assembly
Colorado State Capitol

Re: Federal Enforcement of Marijuana Laws

Dear Governor Hickenlooper and Members of the Colorado General Assembly:

I feel compelled to advise you of recent developments in regard to the federal law enforcement position regarding medical marijuana.

As you are aware, in October of 2009 the U.S. Department of Justice issued a memo to federal law enforcement (the "Ogden memo") indicating that, while manufacturing, possession and distribution of marijuana was a violation of federal law, the department would not employ its resources to pursue individuals acting in strict compliance with state medical marijuana laws.

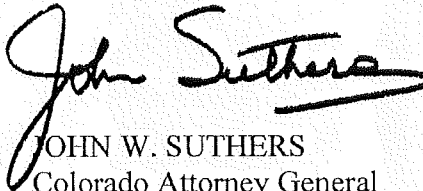
Since the Ogden memo was issued several states, including Colorado, have enacted medical marijuana regulatory schemes that have resulted in explosive growth in the number of persons claiming to be using marijuana for medical purposes. In Colorado for example, there are now approximately 123,000 registered medical marijuana patients. As a result, the DOJ, through various United States Attorneys, has responded to inquiries in order to clarify the scope of the Ogden memo. I am enclosing copies of several such letters, including a letter to me from John Walsh, the United States Attorney for the District of Colorado. These letters indicate that while the Department of Justice will not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law, it does maintain its full authority to vigorously enforce federal law against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, *even if such activities are permitted under state law*. Of great concern is the fact that some of the letters make clear the U.S. Attorneys do not consider state employees who conduct activities under state medical marijuana laws to be immune from liability under federal law.

Governor Hickenlooper, General Assembly
April 26, 2011
Page 2

The letter from U.S. Attorney Walsh, in addition to sharing the viewpoint of the other U.S. Attorneys about the legality of grow operations and dispensaries, elaborates on his specific concerns regarding Colorado House Bill 1043, currently pending in the General Assembly.

Because this clarification of the Ogden memo raises significant issues regarding the medical marijuana regulatory scheme enacted by the Colorado General Assembly in 2010 (which has resulted in widespread manufacture and distribution of medical marijuana in Colorado) and issues regarding currently pending legislation, I wanted to ensure that you were made aware of these developments as soon as possible.

Sincerely,



JOHN W. SUTHERS
Colorado Attorney General

Enclosures

c: Roxy Huber, Executive Director, Department of Revenue
Dr. Christopher E. Urbina, Executive Director, CDPHE



U.S. DEPARTMENT OF JUSTICE

John F. Walsh

*United States Attorney
District of Colorado*

*1225 Seventeenth Street, Suite 700
Seventeenth Street Plaza (FAX)
Denver, Colorado 80202*

*303-454-0100
303-454-0400*

April 26, 2011

John Suthers
Attorney General
State of Colorado
1525 Sherman St., 7th Floor
Denver, CO 80203

Dear Attorney General Suthers:

I am writing in response to your request for clarification of the position of the U.S. Department of Justice (the "Department") with respect to activities that would be licensed or otherwise permitted under the terms of pending House Bill 1043 in the Colorado General Assembly. I have consulted with the Attorney General of the United States and the Deputy Attorney General of the United States about this bill, and write to ensure that there is no confusion as to the Department's views on such activities.

As the Department has noted on many prior occasions, the Congress of the United States has determined that marijuana is a controlled substance, and has placed marijuana on Schedule I of the Controlled Substances Act (CSA). Federal law under Title 21 of the United States Code, Section 841, prohibits the manufacture, distribution or possession with intent to distribute any controlled substance, including marijuana, except as provided under the strict control provisions of the CSA. Title 21, Section 856 makes it a federal crime to lease, rent or maintain a place for the purpose of manufacturing, distributing or using a controlled substance. Title 21, Section 846 makes it a federal crime to conspire to commit that crime, or any other crime under the CSA. Title 18, Section 2 makes it a federal crime to aid and abet the commission of a federal crime. Moreover, federal anti-money laundering statutes, including Title 18, Section 1956, make illegal certain financial transactions designed to promote illegal activities, including drug trafficking, or to conceal or disguise the source of the proceeds of that illegal activity. Title 18, Section 1957, makes it illegal to engage in a financial transaction involving more than \$10,000 in criminal proceeds.

In October 2009, the Department issued guidance (the "Ogden Memo") to U.S. Attorneys around the country in states with laws authorizing the use of marijuana for medical purposes

under state law. At the time the Ogden Memo issued, Colorado law, and specifically, Amendment 20 to the Colorado Constitution, authorized the possession of only very limited amounts of marijuana for medical purposes by individuals with serious illnesses and those who care for them.¹ As reiterated in the Ogden memo, the prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the Ogden Memo, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

It is well settled that a State cannot authorize violations of federal law. The United States District Court for the District of Colorado recently reaffirmed this fundamental principle of our federal constitutional system in *United States v. Bartkowitz*, No. 10-cr-00118-PAB (D. Colo. 2010), when it held that Colorado state law on medical marijuana does not and cannot alter federal law's prohibition on the manufacture, distribution or possession of marijuana, or provide a defense to prosecution under federal law for such activities.

The provisions of Colorado House Bill 1043, if enacted, would permit under state law conduct that is contrary to federal law, and would threaten the ability of the United States government to regulate possession, manufacturing and trafficking in controlled substances, including marijuana. First, provisions of a proposed medical marijuana investment fund amendment to H.B. 1043, which ultimately did not pass in the Colorado House but which apparently may be reintroduced as an amendment in the Colorado Senate, appear to contemplate that the State of Colorado would license a marijuana investment fund or funds under which both Colorado and out-of-state investors would invest in commercial marijuana operations. The Department would consider civil and criminal legal remedies regarding those who invest in the production of marijuana, which is in violation of federal law, even if the investment is made in a state-licensed fund of the kind proposed.

Second, the terms of H.B. 1043 would authorize Colorado state licensing of "medical marijuana infused product" facilities with up to 500 marijuana plants, with the possibility of licensing even larger facilities, with no stated number limit, with a state-granted waiver based upon consideration of broad factors such as "business need." Similarly, the Department would consider civil actions and criminal prosecution regarding those who set up marijuana growing facilities and dispensaries, as well as property owners, as they will be acting in violation of federal law.

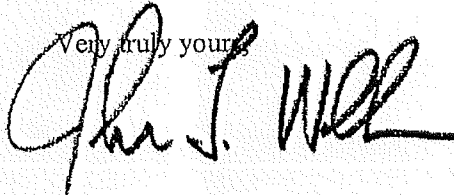
¹ As passed by Colorado voters in 2000, Amendment 20 made lawful under Colorado law the possession by a patient or caregiver of patient of "[n]o more than two ounces of a useable form of marijuana or no more than six marijuana plants with three or fewer being mature, flowering plants producing a usable form of marijuana." Colo. Const. art. XVIII, § 14(4)(a). Within these limits, the Amendment authorized a medical marijuana "affirmative defense" to state criminal prosecution for possession of marijuana. Colo. Const. art. XVIII, § 14(2)(a), (b).

John Suthers
April 26, 2011
Page 3

As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the federal law and the Controlled Substances Act in all states. Thus, if the provisions of H.B. 1043 are enacted and become law, the Department will continue to carefully consider all appropriate civil and criminal legal remedies to prevent manufacture and distribution of marijuana and other associated violations of federal law, including injunctive actions; civil penalties; criminal prosecution; and the forfeiture of any property used to facilitate a violation of federal law, including the Controlled Substances Act.

I hope this letter provides the clarification you have requested, and assists the State of Colorado and its potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana, as well as related financial transactions.

Very truly yours,



JOHN F. WALSH
United States Attorney
District of Colorado

cc: Eric Holder, Attorney General of the United States
James Cole, Deputy Attorney General of the United States



U.S. Department of Justice

*United States Attorney
Northern District of California*

*Melinda Haag
United States Attorney*

*11th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495*

*(415) 436-7200
FAX:(415) 436-7234*

February 1, 2011

John A. Russo, Esq.
Oakland City Attorney
1 Frank Ogawa Plaza, 6th Floor
Oakland, California 94612

Dear Mr. Russo:

I write in response to your letter dated January 14, 2011 seeking guidance from the Attorney General regarding the City of Oakland Medical Cannabis Cultivation Ordinance. The U.S. Department of Justice is familiar with the City's solicitation of applications for permits to operate "industrial cannabis cultivation and manufacturing facilities" pursuant to Oakland Ordinance No. 13033 (Oakland Ordinance). I have consulted with the Attorney General and the Deputy Attorney General about the Oakland Ordinance. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such facilities.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we will enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as Title 21 Section 841 making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana; Title 21 Section 856 making it

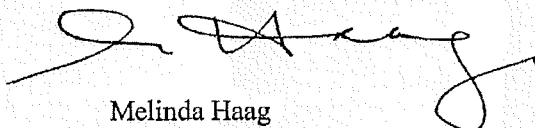
John A. Russo
February 1, 2011
Page 2

unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances; and Title 21 Section 846 making it illegal to conspire to commit any of the crimes set forth in the CSA. Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Department is concerned about the Oakland Ordinance's creation of a licensing scheme that permits large-scale industrial marijuana cultivation and manufacturing as it authorizes conduct contrary to federal law and threatens the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department is carefully considering civil and criminal legal remedies regarding those who seek to set up industrial marijuana growing warehouses in Oakland pursuant to licenses issued by the City of Oakland. Individuals who elect to operate "industrial cannabis cultivation and manufacturing facilities" will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. Potential actions the Department is considering include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

I hope this letter assists the City of Oakland and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,



Melinda Haag
United States Attorney
Northern District of California

cc: Kamala D. Harris, Attorney General of the State of California
Nancy E. O'Malley, Alameda County District Attorney



U.S. Department of Justice

United States Attorney
District of Hawaii

PJJK Federal Building
300 Ala Moana Blvd., Room 6-100
Honolulu, Hawaii 96850

(808) 541-2850
FAX (808) 541-2958

April 12, 2011

Jodie F. Maesaka-Hirata, Director
Department of Public Safety
State of Hawaii
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

Re: SENATE BILL 1458 SD2, HD2

Dear Ms. Maesaka-Hirata:

This replies to your letter dated April 6, 2011, seeking guidance from the Attorney General and my office with regards to S.B. No. 1458, which if enacted, would establish in each County of this State for a five year test period at least one "medical marijuana compassion center" for the manufacture and distribution of marijuana. Under this bill, such marijuana distribution centers licensed by the State Department of Public Safety, would be authorized to sell marijuana within the respective counties in which they are located. In addition, the Bill also authorizes the sale of marijuana to other caregivers and non-resident patients visiting from other states. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such distribution centers.

As the Department has said on many prior occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act, 21 U.S.C. § 801 et. seq. ("CSA") and as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a Federally authorized research program, is a violation of Federal law regardless of state laws permitting such activities.

As a way of emphasizing the foregoing, the CSA's penalties for felony marijuana offenses (manufacture,

Jodie F. Maesaka-Hirata
April 12, 2011
Page 2

distribution, possession with intent to distribute) should be considered:

-1,000 or more marijuana plants, or 1,000 kilograms: 10 years - life imprisonment;

-100 or more marijuana plants, or 100 kilograms: 5 - 40 years imprisonment;

-50 marijuana plants or more, or more than 50 kilograms: up to 20 years imprisonment; and

-Less than 50 marijuana plants, or less than 50 kilograms: up to 5 years imprisonment.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecutions of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity of controlled substances, including marijuana, even if such activities are permitted under state law.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as:

-21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana);

-21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);

Jodie F. Maesaka-Hirata
April 12, 2011
Page 3

-21 U.S.C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);

-21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and

-21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

In addition, Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The Government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

This Bill would create a State licensing scheme which permits the marijuana distribution center in each county to support unlimited numbers of resident caregivers and patients and non-resident patients visiting from other states. As such, this scheme would authorize large-scale marijuana manufacture and sales, which is contrary to Federal law and threatens the Federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department is carefully considering civil and criminal legal remedies if this Bill is enacted and becomes law, with respect to those who seek to create such marijuana distribution centers pursuant thereto. Individuals who elect to operate such marijuana centers will be doing so in violation of Federal law. Others who knowingly facilitate and assist the actions of the licensees (including property owners, landlords, and financiers) should also know that their conduct violates Federal law. Potential actions the Department may consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

Jodie F. Maesaka-Hirata
April 12, 2011
Page 4

I hope this letter assists the State of Hawaii and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Florence T. Nakakuni".

FLORENCE T. NAKAKUNI
United States Attorney



U.S. Department of Justice

United States Attorney

Eastern District of Washington

*Suite 340 Thomas S. Foley U. S. Courthouse (509) 353-2767
P. O. Box 1494 Fax (509) 353-2766
Spokane, Washington 99210-1494*

Honorable Christine Gregoire
Washington State Governor
P.O. Box 40002
Olympia, Washington 98504-0002

April 14, 2011

Re: Medical Marijuana Legislative Proposals

Dear Honorable Governor Gregoire:

We write in response to your letter dated April 13, 2011, seeking guidance from the Attorney General and our two offices concerning the practical effect of the legislation currently being considered by the Washington State Legislature concerning medical marijuana. We understand that the proposals being considered by the Legislature would establish a licensing scheme for marijuana growers and dispensaries, and for processors of marijuana-infused foods among other provisions. We have consulted with the Attorney General and the Deputy Attorney General about the proposed legislation. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such a licensing scheme.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Honorable Christine Gregoire
April 14, 2011
Page 2

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as:

- 21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana);
- 21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);
- 21 U.S.C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);
- 21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and
- 21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

In addition, Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The Government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

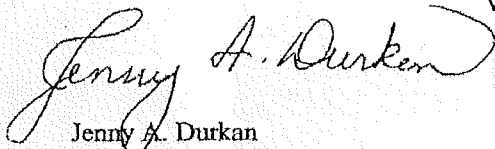
The Washington legislative proposals will create a licensing scheme that permits large-scale marijuana cultivation and distribution. This would authorize conduct contrary to federal law and thus, would undermine the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department could consider civil and criminal legal remedies regarding those who set up marijuana growing facilities and dispensaries as they will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. In addition, state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA. Potential actions the Department could consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any

Honorable Christine Gregoire
April 14, 2011
Page 3

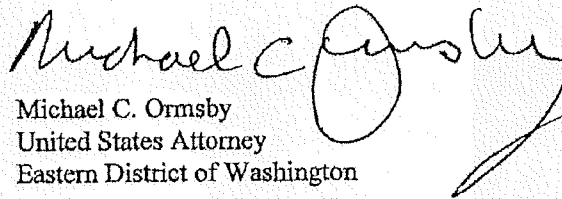
property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

We hope this letter assists the State of Washington and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,



Jenny A. Durkan
United States Attorney
Western District of Washington



Michael C. Ormsby
United States Attorney
Eastern District of Washington



U.S. Department of Justice

***United States Attorney
District of Montana***

MICHAEL W. COTTER
United States Attorney

901 Front Street, Suite 1100
Helena, Montana 59626

406-467-5120

April 20, 2011

Senator Jim Peterson, Senate President
Representative Mike Milburn,
Speaker of the House of Representatives
PO Box 200500
Helena, Montana 59620-0500

Gentlemen:

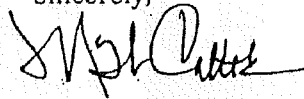
This acknowledges receipt of your letter dated April 18, 2011, requesting Department of Justice guidance concerning a proposed regulatory scheme by the Montana Legislature for the use of marijuana and marijuana infused products for therapeutic purposes. While the Department of Justice has not reviewed the specific legislative proposal for licensing and regulating medical marijuana that you indicate is being finalized, the Department has stated on many occasions that Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws that purport to permit such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. While the Department generally does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen consistent with applicable state law, as stated in the October 2009 Ogden Memorandum, we maintain the authority to enforce the CSA against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

April 20, 2011
Page 2

Hopefully this letter assists the Montana Legislature in making its decisions regarding the cultivation, manufacture and distribution of marijuana.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Cotter". The signature is written in a cursive style with a large initial "M" and "C".

Michael W. Cotter
United States Attorney



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

October 19, 2009

MEMORANDUM FOR SELECTED UNITED STATES ATTORNEYS


FROM: David W. Ogden
Deputy Attorney General

SUBJECT: Investigations and Prosecutions in States
Authorizing the Medical Use of Marijuana

This memorandum provides clarification and guidance to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana. These laws vary in their substantive provisions and in the extent of state regulatory oversight, both among the enacting States and among local jurisdictions within those States. Rather than developing different guidelines for every possible variant of state and local law, this memorandum provides uniform guidance to focus federal investigations and prosecutions in these States on core federal enforcement priorities.

The Department of Justice is committed to the enforcement of the Controlled Substances Act in all States. Congress has determined that marijuana is a dangerous drug, and the illegal distribution and sale of marijuana is a serious crime and provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. One timely example underscores the importance of our efforts to prosecute significant marijuana traffickers: marijuana distribution in the United States remains the single largest source of revenue for the Mexican cartels.

The Department is also committed to making efficient and rational use of its limited investigative and prosecutorial resources. In general, United States Attorneys are vested with "plenary authority with regard to federal criminal matters" within their districts. USAM 9-2.001. In exercising this authority, United States Attorneys are "invested by statute and delegation from the Attorney General with the broadest discretion in the exercise of such authority." *Id.* This authority should, of course, be exercised consistent with Department priorities and guidance.

The prosecution of significant traffickers of illegal drugs, including marijuana, and the disruption of illegal drug manufacturing and trafficking networks continues to be a core priority in the Department's efforts against narcotics and dangerous drugs, and the Department's investigative and prosecutorial resources should be directed towards these objectives. As a general matter, pursuit of these priorities should not focus federal resources in your States on

Subject: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana

individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana. For example, prosecution of individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or those caregivers in clear and unambiguous compliance with existing state law who provide such individuals with marijuana, is unlikely to be an efficient use of limited federal resources. On the other hand, prosecution of commercial enterprises that unlawfully market and sell marijuana for profit continues to be an enforcement priority of the Department. To be sure, claims of compliance with state or local law may mask operations inconsistent with the terms, conditions, or purposes of those laws, and federal law enforcement should not be deterred by such assertions when otherwise pursuing the Department's core enforcement priorities.

Typically, when any of the following characteristics is present, the conduct will not be in clear and unambiguous compliance with applicable state law and may indicate illegal drug trafficking activity of potential federal interest:

- unlawful possession or unlawful use of firearms;
- violence;
- sales to minors;
- financial and marketing activities inconsistent with the terms, conditions, or purposes of state law, including evidence of money laundering activity and/or financial gains or excessive amounts of cash inconsistent with purported compliance with state or local law;
- amounts of marijuana inconsistent with purported compliance with state or local law;
- illegal possession or sale of other controlled substances; or
- ties to other criminal enterprises.

Of course, no State can authorize violations of federal law, and the list of factors above is not intended to describe exhaustively when a federal prosecution may be warranted. Accordingly, in prosecutions under the Controlled Substances Act, federal prosecutors are not expected to charge, prove, or otherwise establish any state law violations. Indeed, this memorandum does not alter in any way the Department's authority to enforce federal law, including laws prohibiting the manufacture, production, distribution, possession, or use of marijuana on federal property. This guidance regarding resource allocation does not "legalize" marijuana or provide a legal defense to a violation of federal law, nor is it intended to create any privileges, benefits, or rights, substantive or procedural, enforceable by any individual, party or witness in any administrative, civil, or criminal matter. Nor does clear and unambiguous compliance with state law or the absence of one or all of the above factors create a legal defense to a violation of the Controlled Substances Act. Rather, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion.

Subject: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana

Finally, nothing herein precludes investigation or prosecution where there is a reasonable basis to believe that compliance with state law is being invoked as a pretext for the production or distribution of marijuana for purposes not authorized by state law. Nor does this guidance preclude investigation or prosecution, even when there is clear and unambiguous compliance with existing state law, in particular circumstances where investigation or prosecution otherwise serves important federal interests.

Your offices should continue to review marijuana cases for prosecution on a case-by-case basis, consistent with the guidance on resource allocation and federal priorities set forth herein, the consideration of requests for federal assistance from state and local law enforcement authorities, and the Principles of Federal Prosecution.

cc: All United States Attorneys

Lanny A. Breuer
Assistant Attorney General
Criminal Division

B. Todd Jones
United States Attorney
District of Minnesota
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Acting Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Kevin L. Perkins
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

AGENDA ITEM # 5

CITY COUNCIL COMMUNICATION FORM

FROM: Anthony B. Lettunich, City Attorney (879-0100)

THROUGH: Wendy DuBord, Interim City Manager (Ext. 219)
Jon Roberts, City Manager (Ext. 218)

DATE: Tuesday, May 17, 2011

RE: Motion: Motion to return Jon Roberts to full-time status as City Manager and to return Wendy DuBord to status as full-time Deputy City Manager, restoring both to their salaries in effect prior to Jon Roberts medical leave; to be effective for the pay period beginning May 21, 2011. (Lettunich)

NEXT STEP: Pass the Motion.

Information
 Motion

I. PURPOSE FOR AGENDA ITEM:

To pass a motion approving the return of Jon Roberts to full-time status as City Manager and the return of Wendy DuBord to full-time status as Deputy City Manager.

II. FISCAL IMPACTS:

Neutral. This action will result in the return of Jon Roberts to 100% salary as City Manager and will result in the return of Wendy DuBord to 100% salary as Deputy City Manager. During the period that Wendy DuBord was Interim City Manager her salary had been increased to that of Mr. Roberts.

III. ADDITIONAL INFORMATION:

The contract with Wendy DuBord to be the Interim City Manager was to run until (a) Jon Roberts returns, or (b) until June 30, 2011, whichever first occurs. Mr. Roberts has returned to work full-time and Mr. Roberts and Mrs. DuBord acknowledge and agree that this action is appropriate.

IV. NEXT STEP:

Motion:

Motion to return Jon Roberts to full-time status as City Manager and to return Wendy DuBord to status as full-time Deputy City Manager, restoring both to their salaries in effect prior to Jon Roberts medical leave; to be effective for the pay period beginning May 21, 2011.

End of Communication Form

AGENDA ITEM # 6

CITY COUNCIL COMMUNICATION FORM

FROM: Ben Beall, Public Works Engineer (Ext. 293)
Philo Shelton, Director of Public Works (Ext. 204)

THROUGH: Jon Roberts, City Manager, (Ext. 228)

DATE: May 12, 2011

ITEM: Watershed Protection Permit 11-01
Motion: Approval of a Watershed Protection permit to authorize seasonal usage of a parcel for a nursery sales retail operation located within the Steamboat Municipal Well A influence area as shown in the City of Steamboat Springs Waterworks Protection Map. (Beall)

NEXT STEP: If City Council approves the application, the applicant can proceed with County process for execution of their activity.

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

PROJECT NAME: Snow Country Nursery - #WPP-11-01

PETITION: Approval of a Watershed Protection permit to authorize seasonal usage of a parcel for a nursery sales retail operation located within the Steamboat Municipal Well A influence area as shown in the City of Steamboat Springs Waterworks Protection Map.

LOCATION: 35975 US Highway 40, a parcel within Routt County

APPLICANT: Clay Rogers and Mitch Clark
PO Box 882290
Steamboat Springs, CO 80488

Parcel Owner: Butch Dougherty

EXECUTIVE SUMMARY:

1. Background:

The applicant proposes to store and sell trees and shrubs as part of a retail and wholesale landscaping operation from April to November. The proposed use includes approximately one acre of nursery storage. All fertilizer used will be stored above ground in sealed bags or impermeable containers. The applicant has obtained written permission from Mount Werner Water staff.

In May 2007, Ordinance No. 2109 created Chapter 27 of the City of Steamboat Springs Municipal Code. The new chapter created a permitting mechanism to protect the City's watershed from damage, harm or injury by requiring best management practices for activity within defined watershed influence zones. The authority for the City to exercise permitting requirements outside City boundaries is per Colorado Revised Statutes.

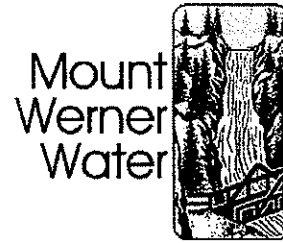
Recommended Motion:

Public Works staff recommends approval of a Watershed Protection permit for Snow Country nursery with the following conditions:

- i. No chemical pesticides, herbicides, fertilizers, or hazardous material shall be stored, used, or located on the site
- ii. No storage of old vehicles and equipment. "Old" shall be defined as having a model year 30-years from the date of observation.
- iii. Vehicle and equipment maintenance including fueling and oil changes to be conducted on an impermeable membrane with containment
- iv. Storm water from parking lot, office area, or snow storage site to be directed to the east toward the US40 ditch
- v. Trash collection facilities or dumpsters will be situated to prevent effluent contribution to surrounding soils
- vi. In case of spill or release of any hazardous materials, Snow Country shall notify Mount Werner Water District within a reasonable timeframe.
- vii. A minimum 100-foot natural buffer shall be maintained at all times between the Yampa River and all site activities.

LIST OF ATTACHMENTS

Attachment 1 – Mount Werner Water administrative permit approval letter.



April 26, 2011

Snow Country Nursery
 PO Box 882290
 Steamboat Springs, CO 80488
 Attn: Clay Rogers

RE: Administrative Permit PP2011-012

Dear Clay,

Thank you for meeting with us yesterday to discuss your plans for Snow Country Nursery on Butch Dougherty's Parcel A south of our infiltration gallery.

In light of the concerns raised with the previous landscaping operation and in keeping with the District's Wellhead Protection Resolution, we reviewed the following conditions for the permit:

1. No chemical pesticides, herbicides, fertilizers, or hazardous material shall be stored, used, or located on the site.

Snow Country is proposing to store on-site the organic fertilizer Malorganite in secure containers off the ground in a portable shed. This product is used for off-site plantings of nursery stock and will not be used on site. Snow Country will provide to Mount Werner Water the material safety data sheet on this product and on the mulch material Snow Country may plan to store on site. In case of flooding, Snow Country will remove the Malorganite from the site.

No gasoline, engine oil, or hydraulic fluids will be stored on site.

2. No storage of old vehicles and equipment.

The only vehicles and equipment on site will be Snow Country employee vehicles and two skid-steers.

3. Vehicle and equipment maintenance including fueling and oil changes to be conducted on an impermeable membrane with containment.

All vehicle and equipment fueling and maintenance will be performed off site. In the future, Snow Country may propose some kind of containment system for their fueling tank and understand that Mount Werner Water must approve the proposal in advance if Snow Country wishes to relocate the tank to the nursery.

4. Stormwater from parking lot, office area, or snow storage site to be directed to the east towards US 40 ditch.

The site drains east to the ditch along US40. There will be no snow storage on site because this is a seasonal operation.

5. Trash collection facilities or dumpsters will be situated to prevent effluent contribution to surrounding soils.

There will be no dumpsters; only trash bins which will be taken off site.

6. In case of spill or release of any hazardous materials, Snow Country will notify the Mount Werner Water District 879-2424.

Snow Country has agreed to this.

We appreciate the cooperation of Snow Country and Routt County in helping to protect our public drinking water resources. If you have any questions, please do not hesitate to call me at 879-2424.

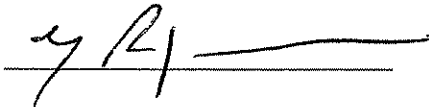
Sincerely,

Mount Werner Water and Sanitation District



Jay Gallagher
General Manager

We as principals of Snow Country Nursery have agreed to the conditions and representations of our proposed operation as cited above.



Clay Rogers



Mitch Clark

cc: Jake Rosenberg, Routt County Planning Dept.
Seth Lorson, City of Steamboat Springs Planning Dept.
Philo Shelton, City of Steamboat Springs Dept. of Public Works

AGENDA ITEM # 7

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, Staff Attorney (Ext. 223)

THROUGH: Jon Roberts, City Manager

DATE: May 17, 2011

ITEM: AN ORDINANCE AMENDING SECTIONS 12-29, 26-402, AND 26-92 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE RELATING TO APPROVAL PROCEDURES FOR PEDDLERS, SOLICITORS, CANVASSERS, OR TRANSIENT SELLERS OPERATING IN PUBLIC PLACES; PROVIDING AN EFFECTIVE DATE; AND SETTING A HEARING DATE (Foote)

NEXT STEP: Introduce ordinance at first reading

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

I. REQUEST OR ISSUE:

Introduce and ordinance modifying procedures for licensing of mobile vendors.

II. RECOMMENDED ACTION:

Introduce the ordinance.

III. BACKGROUND INFORMATION:

Persons who wish to travel from place to place in a vehicle or conveyance for the purpose of selling goods or soliciting the sale of goods for later delivery must obtain a peddler or solicitor's license from the City Clerk. If the peddler or solicitor wishes to operate on a public street, alley, park, or other public place, the license may not be issued until the peddler or solicitor has obtained a development permit, which can only be issued by the City Council after review by the Planning Commission.

The development permit provisions would require mobile vendors such as ice cream trucks or food trucks to undergo a six week public review process with public hearings before the Planning Commission and City Council and pay \$1500 in fees in order to operate.

IV. DISCUSSION ITEMS:

Planning staff believes that this development review process is unnecessarily cumbersome, at least with respect to vendors who wish to operate in residential and park areas. The proposed ordinance would allow mobile vendors to obtain a development permit to operate in public places via an administrative approval process.

The administrative process would not apply to mobile vendors seeking to operate in commercial or industrial zone districts. Those vendors would still be required to obtain City Council approval after a public hearing.

Nor would the administrative process apply to vendors seeking to operate from a fixed location. Vendors operating from a fixed location would be governed by CDC Outdoor Sales regulations, which prohibits such sales in residential zone districts and designates them as a conditional use in commercial and industrial zone districts.

V. CONFLICTS OR PROBLEMS.

None.

VI. FISCAL IMPACTS.

None.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 12-29, 26-402, AND 26-92 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE RELATING TO APPROVAL PROCEDURES FOR PEDDLERS, SOLICITORS, CANVASSERS, OR TRANSIENT SELLERS OPERATING IN PUBLIC PLACES; PROVIDING AN EFFECTIVE DATE; AND SETTING A HEARING DATE.

WHEREAS, Section 12-29 of the Revised Municipal Code requires Planning Commissioner review and City Council approval of a development permit prior to licensing mobile vendors such as ice cream trucks to operate in public places such as streets, sidewalks, and parks and recreation areas; and

WHEREAS, the City Council finds that administrative review by the director of planning services and/or the director of parks, open space, and recreational services of mobile vendor license application is appropriate for mobile vendors seeking approval to operate in residential and open space and recreation zone districts.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. Section 12-29 of the City of Steamboat Springs Revised Municipal Code is hereby amended to read as follows:

“Section 12-29. Conduct of business on street or other public place.

(a) No peddler, solicitor, canvasser or transient seller shall:

(1) Carry on his business upon any street, alley, sidewalk, park or any other public place unless his license specifies that peddling, soliciting, canvassing or transient selling in such public place is permitted thereunder, ~~and in no case shall such provisions be made without approval of a development permit by the city council following recommendation of the planning commission.~~ The City Clerk shall not issue a license permitting peddling, soliciting, canvassing, or transient selling in a public place until and unless the applicant has obtained any approval of such use required by the Community Development Code. In the case of an applicant who wishes to operate in public parks or open space areas the applicant must submit the proposed operation for review by the Parks and Recreation Commission and obtain the approval of the Director of Parks, Open Space, and Recreational Services. Vendors of food products must also obtain any approvals or permits required by the Routt County Department of Public Health or other authorized regulatory authority. The city manager or his

authorized representative shall have the authority to revoke or suspend the permit upon misconduct by the permittee;

(2) Sell from any established or permanent location upon any street, alley, sidewalk, park or other public place without approval of a development permit in accordance with the provisions of the Community Development Code; or

(3) Park or stand his wagon, automobile or other vehicle upon any sidewalk or sidewalk area, or upon any street, alley, highway or public thoroughfare so as to obstruct the free travel thereon.

(b) The city council, may approve an application for a development permit to use a public place; however the city manager may, determine that the peddling, soliciting, canvassing or transient selling constitutes an obstruction of the public way or place, constitutes a health hazard or other hazardous condition upon the public way or place, is not in compliance with the laws of the city, or is not compatible with the intended use or traffic upon the public way or place, and may revoke the license or add reasonable conditions.”

Section 2. The definition and use criteria for *Mobile Vending* in Section 26-402 is hereby amended to read as follows:

~~“Mobile Vending- Mobile vending of merchandise, food or beverage, from the public right of way, for a prescribed period of time. This shall not include vendors operating on a sidewalk or within a park or recreation area. (Refer to outdoor sales for vending in a fixed location. Refer to the city parks and recreation department for vending within city parks or recreation areas. means selling or offering for sale merchandise, food, or beverages from any type of vehicle or conveyance operating in a public way or public places. Mobile vending does not include vendors operating food carts or other vehicles or conveyances that operate from a fixed location. (Refer to outdoor sales for vending from in a fixed location.)~~

(1) Use Criteria.

- a. The applicant must provide a business plan that demonstrates that the applicant’s operation will be mobile and not limited to a fixed location or series of fixed locations.
- b. The applicant must provide a business plan that demonstrates that the applicant’s operations will not obstruct the public way or place or constitute a health hazard or other hazardous condition and is compatible with the intended use or traffic upon the public way or public place.
- c. Vendors of food products must also obtain any approvals or permits required by the Routt County Department of Public Health or other authorized regulatory authority.

d. Applicants proposing to operate in parks or open space areas must submit their proposed operation for review by the Parks and Recreation Commission and obtain the written approval of the Director of Parks, Open Space, and Recreational Services."

Section 3. The commercial uses table set forth in Section 26-92 is hereby amended by the addition of the following line:

"

<i>Use Classification and specific principal uses</i>	O R	R E	R N	R O	R R	M H	M F	G - 1	G - 2	C O	C Y	C N	C C	C S	I	T 2- N E	T3 - N G1	T3 - N G2	T 4- N C	T 5- T C	S D
<i>Mobile Vending</i>	<u>C</u> <u>R</u>	<u>C</u> <u>R</u>	<u>C</u> <u>R</u>	<u>C</u> <u>R</u>	<u>C</u> <u>R</u>	<u>C</u> <u>R</u>	<u>C</u> <u>R</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>CR</u>	<u>CR</u>	<u>C</u> <u>R</u>	<u>C</u> <u>R</u>	<u>C</u> <u>R</u>

"

Section 4. The City Council hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety.

Section 5. This ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

Section 6. A public hearing on this ordinance shall be held on _____, 2011, at 5:15 P.M. in the Citizens Hall meeting room, Centennial Hall, Steamboat Springs, Colorado.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the ____ day of _____, 2011.

Cari Hermacinski, President
Steamboat Springs City Council

ATTEST:

Julie Franklin, CMC
City Clerk

FINALLY READ, PASSED AND APPROVED this _____ day of
_____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 8

CITY COUNCIL COMMUNICATION FORM

FROM: Deb Hinsvark, Finance Director X240
Philo Shelton, Director of Public Works X204

THROUGH: Jon Roberts, City Manager X228

DATE: May 17, 2011

ITEM: An Ordinance Approving a Loan from the Colorado Water Resources and Power Development Authority.

NEXT STEP: Approve on second reading.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

I. REQUEST OR ISSUE:

The City's TABOR enterprise Utility Funds have \$11.9 million of infrastructure projects planned. These projects can be completed over 2 years with this financing and the financing can be repaid with currently approved rates. The Colorado Water Resources and Power Development Authority (CWRPDA or Authority) will issue revenue bonds based on the City of Steamboat Utilities' credit rating and then will lend the proceeds of the bonds to the Utilities. The loan repayment will be identical to the debt service needs of the loan; thus when the City makes a loan payment to the CWRPDA, the Authority will use that payment to pay off the debt.

II. RECOMMENDED ACTION:

To follow the plan of the 2010 Rate Study and complete the needed infrastructure upgrades and repairs, this financing should be completed. It is recommended that the ordinance be passed.

III. FISCAL IMPACTS:

The bonds issued by the Authority will be Revenue bonds and only the revenues of the City's Utility Funds are pledged to the repayment of the bonds. The Utilities will go through a process of receiving a rating from Moody's that will give evidence to their ability to repay the debt at rates that are already in place or have been approved by the City Council (rates are set to change in 2012 and 2013 in accordance with the rate study and as approved by Council in 2010.)

IV. BACKGROUND INFORMATION:

The City's water and wastewater utilities obtained a water rate study in 2010 which revealed deferred maintenance issues in the Utility infrastructure and recommended rate increases to deal with current infrastructure problems. The increased rates recommendation was accepted by Council and rates for the next three years were established.

The \$11.9 million projects that are planned to be completed with the proceeds of this loan are designed to upgrade or repair aging infrastructure of the Utilities. Rates established in the 2010 Rate Study are designed to cover the debt service on the bonds that will be issued to provide the proceeds to the CWRPDA and then loaned to the City's Utilities.

V. LEGAL ISSUES:

The City Attorney will review every bond document as they are completed. There are no legal issues at this time and none are anticipated.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None.

VII. SUMMARY AND ALTERNATIVES:

Council can approve this ordinance and City staff will proceed with the financing. Council can choose to require the Utilities to use a pay as you go method for the improvements designated to be completed with this financing.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE APPROVING A LOAN FROM THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY; AUTHORIZING THE FORM AND EXECUTION OF THE LOAN AGREEMENT AND A GOVERNMENTAL AGENCY BOND TO EVIDENCE SUCH LOAN; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the City of Steamboat Springs, Colorado (the "City") is a home rule municipality and political subdivision of the State of Colorado (the "State") organized and existing under a home rule charter (the "Charter") pursuant to Article XX of the Constitution of the State; and

WHEREAS, the City has previously determined that its water and wastewater system (the "System") constitutes a "water activity enterprise" under Title 37, Article 45.1, Colorado Revised Statutes, and an enterprise under Article X, Section 20 of the Colorado Constitution ("TABOR") and the City has adopted a resolution recognizing and formally establishing the "City of Steamboat Springs Utilities Fund Enterprise" (the "Enterprise"); and

WHEREAS, the City Council of the City (the "City Council"), acting by and through the Enterprise, has heretofore determined that the interest of the City and the public interest and necessity demand and require the acquisition, construction, and completion of certain water and wastewater improvements identified in the Water and Wastewater Master Plan Updates dated December 2009 (the "Project"); and

WHEREAS, the City Council has determined that in order to finance a portion of the costs of the Project, it is necessary and advisable and in the best interests of the City, acting by and through the Enterprise, to enter into a loan agreement (the "Loan Agreement"; attached hereto as Exhibit E) with the Colorado Water Resources and Power Development Authority ("CWRPDA"), a body corporate and political subdivision of the State of Colorado, pursuant to which CWRPDA shall loan the City, acting by and through the Enterprise, an amount of not to exceed \$13,250,000 (the "Loan") for such purposes; and

WHEREAS, CWRPDA will obtain moneys to fund the Loan through the issuance of its bonds (the "CWRPDA Bonds"); and

WHEREAS, the City currently has the following loans outstanding with the CWRPDA that are secured by a pledge of the net revenues of the System (collectively, the "Parity Obligations"): (i) a loan dated as of May 1, 1995 in the outstanding principal amount of \$445,585.09; (ii) a loan dated as of July 1, 1999 in the outstanding principal amount of \$1,467,818; and (iii) a loan dated May 1, 2001 in the outstanding principal amount of \$3,533,057.60; and

WHEREAS, the City's repayment obligations under the Loan Agreement shall be evidenced by a governmental agency bond (the "Bond") to be issued by the City, acting by and through the Enterprise, to CWRPDA; and

WHEREAS, the Bond and the Loan Agreement shall be a revenue obligation of the City, acting by and through the Enterprise, and payable from the Pledged Property (as defined in the Loan Agreement) on a parity with the Parity Obligations, and pursuant to TABOR may be approved by the City Council, acting by and through the Enterprise, without an election; and

WHEREAS, Piper Jaffray & Co. (the "Underwriter") will purchase the CWRPDA Bonds pursuant to a Bond Purchase Agreement (the "Bond Purchase Agreement") among the CWRPDA, the City, acting by and through the Enterprise, and the Underwriter; and

WHEREAS, the City Council desires to approve the forms of the Loan Agreement and the Bond (collectively, the "Financing Documents"), copies of which have been filed with the City Clerk of the City and authorize the execution thereof; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes (the "Supplemental Act"), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. Approvals and Authorizations. The forms of the Financing Documents presented at this meeting are incorporated herein by reference and are hereby approved. The City, acting by and through the Enterprise, shall enter into and perform its obligations under the Financing Documents in substantially the forms of such documents, with such changes as are not inconsistent herewith and as are hereafter approved by the President of the City Council (the "President"), the Acting City Manager of the City (the "Acting City Manager") or the Director of Financial Services of the City (the "Director of Financial Services"). The President and City Clerk of the City (the "City Clerk") and other appropriate officials or

employees of the City are hereby authorized and directed to execute the Financing Documents and to affix the seal of the City thereto, and further to execute and authenticate such other documents or certificates as are deemed necessary or desirable in connection therewith. The execution of any instrument or certificate or other document in connection with the matters referred to herein by the President and City Clerk or by other appropriate officials or employees of the City, shall be conclusive evidence of the approval by the City of such instrument.

Section 2. Election to Apply Supplemental Act. Section 11-57-204 of the Supplemental Act provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The City Council hereby elects to apply all of the provisions of the Supplemental Act to the Loan Agreement and the Bond.

Section 3. Delegation.

(a) The City Council hereby delegates to each of the President, the Acting City Manager or the Director of Financial Services the independent authority to make any determination delegable pursuant to Section 11-57-205 of the Supplemental Act, in relation to the Loan and the Bond, and to execute a sale certificate setting forth such determinations, subject to the restrictions contained in paragraph (b) of this Section 3. Such determinations may include, without limitation, the following provisions: (i) the interest rate on the Loan; (ii) the principal amount of the Loan; (iii) the amount of principal of the Loan maturing in any given year and the final maturity of the Loan; (iv) the dates on which the principal of and interest on the Loan are paid; and (v) the existence and amount of reserve funds for the Loan, if any.

Pursuant to Section 11-57-205 of the Supplemental Act, the City Council hereby further delegates to the President, the Acting City Manager or the Director of Financial Services the independent authority to sign the Bond Purchase Agreement and to execute any agreement or agreements in connection therewith. The Bond Purchase Agreement may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance. The execution of the Bond Purchase Agreement by the President, Acting City Manager or the Director of Financial Services shall be conclusive evidence of the approval by the City of the Bond Purchase Agreement in accordance with the terms hereof.

Further, each of the President, the Acting City Manager or the Director of Financial Services is independently authorized by the City Council to determine if obtaining a bond insurance policy for the Bond is in the best interests of the City and, if so, to execute and deliver a commitment for the issuance of a municipal bond insurance policy on the Bond with a bond insurer, and enter into any related documents or agreements required by such commitment. The President, Acting City Manager or the Director of Financial Services are also hereby independently

authorized to determine if obtaining a reserve fund insurance policy for deposit into any required reserve fund is in the best interests of the City, and if so, to select a surety provider to issue a reserve fund insurance policy for all or any portion of the reserve fund requirement related to the Bond and execute any related documents or agreements required by such commitment.

(b) The delegations in paragraph (a) of this Section 3 shall be subject to the following parameters and restrictions: (i) the interest rate on the Loan shall not exceed 6.00% per annum; (ii) the principal amount of the Loan shall not exceed \$13,250,000; and (iii) the final maturity of the Loan shall not be later than August 1, 2031. The delegation set forth in paragraph (a) of this Section 3 shall be effective for one year after adoption of this Ordinance.

Section 4. Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Act, the Bond shall contain a recital that it is issued pursuant to certain provisions of the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bond after its delivery for value.

Section 5. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Loan Agreement and the Bond provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Ordinance. The revenue pledged to the payment of the Loan Agreement and the Bond shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have the priority described in the Loan Agreement. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the City irrespective of whether such persons have notice of such liens.

Section 6. Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the Financing Documents shall be commenced more than thirty days after approval of this Ordinance.

Section 7. Limited Obligation; Special Obligation. The Loan and the Bond are payable solely from the Pledged Property (as defined in the Loan Agreement) and the Loan and the Bond shall not constitute an indebtedness or a debt within the meaning of any constitutional, home rule charter or statutory provision or limitation; and the Loan and the Bond shall not be considered or held to be general obligations of the City.

Section 8. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the City Council, or any officer

or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal of or interest on the Bond. Such recourse shall not be available either directly or indirectly through the City Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Bond and as a part of the consideration of its sale or purchase, CWRPDA specifically waives any such recourse.

Section 9. Disposition and Investment of Loan Proceeds. The proceeds of the Loan shall be applied only to pay the costs and expenses of acquiring, constructing and equipping the Project, including costs related thereto and, to the extent permitted under federal tax laws, reimbursement to the City for capital expenditures heretofore incurred and paid from City funds in anticipation of the incurrence of long-term financing therefor, and all other costs and expenses incident thereto, including without limitation the costs of obtaining the Loan. Neither CWRPDA nor any subsequent owner or owners of the Loan Agreement shall be responsible for the application or disposal by the City or any of its officers of the funds derived from the Loan. In the event that all of the proceeds of the Loan are not required to pay such costs and expenses, any remaining amount shall be used for the purpose of paying the principal amount of the Loan and the interest thereon.

Section 10. City Representative. Pursuant to Exhibit B of the Loan Agreement, Debra Hinsvark, Director of Financial Services, is hereby designated as the Authorized Officer (as defined in the Loan Agreement) for the purpose of performing any act or executing any document relating to the Loan, the City, the Bond or the Loan Agreement. A copy of this Ordinance shall be furnished to CWRPDA as evidence of such designation.

Section 11. Estimated Life of Improvements. It is hereby determined that the estimated life of the Project to be financed with the proceeds of the Loan is not less than the final maturity of the Loan.

Section 12. CWRPDA's Official Statement. The appropriate officers and employees of the City are hereby authorized and directed to furnish and supply information concerning the City to CWRPDA for use in the preparation of an Official Statement (the "Official Statement") to be used to market the CWRPDA Bonds.

Section 13. Direction to Take Authorizing Action. The appropriate officers of the City and members of the City Council are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this Ordinance, including but not limited to such certificates and affidavits as may reasonably be required by CWRPDA.

Section 14. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and members of the City Council, not inconsistent with the provisions of this Ordinance, relating to the Financing Documents, the preparation of the Official Statement, and the construction of the Project, or actions to be taken in respect thereof, are hereby authorized, ratified, approved, and confirmed.

Section 15. Repealer. All acts, orders, resolutions, or ordinances, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 16. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Section 17. Recording and Authentication. This Ordinance as adopted shall be authenticated by the signature of the President and the City Clerk. A true copy of this authenticated Ordinance shall be numbered and recorded in the official records of the City, as required by the Charter.

Section 18. Charter. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this Ordinance are hereby superseded to the extent of any inconsistencies between the provisions of this Ordinance and such statutes. Any such inconsistency is intended by the City Council and shall be deemed made pursuant to the Charter.

Section 19. Posting and Publication. This Ordinance shall be posted and published as required by the Charter following approval on first reading and following final passage. Such posting and publication shall be by title and shall contain a summary of this Ordinance and shall contain a notice to the public that copies of the Ordinance are available at the office of the City Clerk.

Section 20. Public Hearing. Prior to final passage of this Ordinance, the City Council shall hold a public hearing on this Ordinance. Notice of the public hearing, specifying the day, hour and place of the public hearing, shall be included in the posting and first publication of this Ordinance. The public hearing on this Ordinance shall be held not earlier than four (4) days after first publication of this Ordinance.

Section 21. Ordinance Irrepealable. After the Bond is issued, this Ordinance shall be and remain irrepealable until the Bond and the interest thereon shall have been fully paid, satisfied and discharged.

Section 22. Effective Date. This Ordinance shall take effect five (5) days after publication following final passage.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

STATE OF COLORADO)
) SS.
 CITY OF STEAMBOAT SPRINGS)

I, Julie Franklin, the City Clerk of the City of Steamboat Springs, Colorado (the "City"), do hereby certify that:

1. The foregoing pages are a true and correct copy of Ordinance No. _____ (the "Ordinance").
2. Copies of the Ordinance were made available to the City Council and to the public.
3. The Ordinance was duly introduced, read by title, moved and seconded and the Ordinance was approved on first reading by the City Council at a regular meeting of the City Council at Centennial Hall, 124 10th Street, the regular meeting place thereof, on Tuesday, May 3, 2011, by an affirmative vote of a majority of the membership of the entire City Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Cari Hermacinski, President				
Jon Quinn, President Pro-Tem				
Kenny Reisman				
Bart Kounovsky				
Walter Magill				
Meg Bentley				
Scott Myller				

4. Following approval on first reading, the Ordinance was duly posted by title at Centennial Hall, the downtown Post Office, and City Market, in the City, on May ____, 2011 and was published by title in The Steamboat Pilot, a newspaper of general circulation published in the City in its issue of May ____, 2011, as evidenced by the certificate of the publisher attached hereto as Exhibit A. The posting and publication contained a summary of the subject matter of the Ordinance and contained a notice that copies of the Ordinance are available at the office of the City Clerk. Such posting and first publication contained a notice of public hearing on the Ordinance, specifying the day, hour, and place of the public hearing.

5. The Ordinance was duly introduced, read by title, moved and seconded, and finally adopted and approved on second reading by the City Council at a regular meeting of the City Council at Centennial Hall, 124 10th Street, the regular meeting place thereof, on Tuesday, the 17th day of May, 2011, by an affirmative vote of a majority of the membership of the entire City Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Cari Hermacinski, President				
Jon Quinn, President Pro-Tem				
Kenny Reisman				
Bart Kounovsky				
Walter Magill				
Meg Bentley				
Scott Myller				

6. Prior to taking final action on the Ordinance, the City Council held a public hearing on the Ordinance. The public hearing was held not earlier than four (4) days after first publication of the Ordinance.

7. Following its final passage, the Ordinance was duly posted by title at Centennial Hall, the downtown Post Office, and City Market, in the City, on May ____, 2011 and remained posted for ten (10) days after the effective date of the Ordinance. Following its final passage, the Ordinance was published by title in The Steamboat Pilot, a newspaper of general circulation published in the City in its issue of May ____, 2011, as evidenced by the certificate of the publisher attached hereto as Exhibit B. The posting and publication contained a summary of the subject matter of the Ordinance and contained a notice that copies of the Ordinance are available at the office of the City Clerk.

8. The members of the City Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

9. A true copy of the Ordinance has been authenticated by the President of the Council and by myself as City Clerk of the City, sealed with the seal of the City, and numbered and recorded in the official records of the City.

10. Notices of the meetings of May 3, 2011 and May 17, 2011, in the form attached hereto as Exhibit C and Exhibit D, respectively, were posted at Centennial Hall, the downtown Post Office, and City Market, in the City, not less than twenty-four (24) hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of the City affixed this May ____, 2011.

Julie Franklin, CMC, City Clerk

(SEAL)

Exhibit A

(Attach Affidavit of Publication after First Reading)

Exhibit B

(Attach Affidavit of Publication after Final Passage)

Exhibit C

(Attach Form of Notice of May 3, 2011 meeting)

Exhibit D

(Attach form of Notice of November 2, 2010 Meeting)

WATER REVENUE BOND PROGRAM

LOAN AGREEMENT

BETWEEN

**COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY**

AND

**CITY OF STEAMBOAT SPRINGS, COLORADO, ACTING BY AND THROUGH
THE CITY OF STEAMBOAT SPRINGS UTILITY FUND ENTERPRISE**

DATED AS OF JUNE 1, 2011

THIS LOAN AGREEMENT, made and entered into as of June 1, 2011, by and between **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the “Authority”), a body corporate and political subdivision of the State of Colorado, and the **CITY OF STEAMBOAT SPRINGS, COLORADO**, an home rule city, **ACTING BY AND THROUGH THE CITY OF STEAMBOAT SPRINGS UTILITY FUND ENTERPRISE** (the “Governmental Agency”);

WITNESSETH THAT:

WHEREAS, the Authority is authorized by Title 37, Article 95, Part 1, Colorado Revised Statutes, as amended (the “Act”), to issue its negotiable bonds or notes in furtherance of its purposes to preserve, protect, upgrade, conserve, develop, utilize, and manage the water resources of the State, and to make loans to any governmental agency for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of projects related to its purposes, which loans may be secured by loan and security agreements; and

WHEREAS, the Governmental Agency has the power to borrow money and to acquire, construct, operate, control and use any and all works, facilities and means for the purpose of providing for the furnishing of water, and electricity and the treatment of water within the city limits of the City of Steamboat Springs, Colorado and within certain geographical areas outside of the city limits of the City of Steamboat Springs, Colorado; and

WHEREAS, in furtherance of its purposes, the Governmental Agency has determined to finance the cost of acquisition and construction of various improvements to its water system which include the acquisition, construction and reimbursement costs associated with the Southern Delivery System, and renovation of the building located at 101 North Main Street, Fountain Colorado to be used as a customer service center for its utility customers; and

WHEREAS, the Authority has authorized the issuance of its revenue bonds, pursuant to the Act in order to loan the proceeds to the Governmental Agency to finance such improvements on the terms and conditions herein set forth;

WHEREAS, the Governmental Agency will issue its bond to the Authority to evidence said loan from the Authority;

NOW, THEREFORE, for and in consideration of the award of the loan by the Authority and of the mutual covenants herein, the Authority and the Governmental Agency each agree to perform their respective obligations under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as a part hereof, as follows:

ARTICLE I.

DEFINITIONS

SECTION 1.01 Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

“**Act**” means the “Colorado Water Resources and Power Development Authority Act,” being Section 37-95-101 et. seq. of the Colorado Revised Statutes, as the same may from time to time be amended and supplemented.

“**Authority**” means the Colorado Water Resources and Power Development Authority, a body corporate and political subdivision of the State of Colorado with corporate succession duly created and validly existing under and by virtue of the Act.

“**Authority Bonds**” means bonds authorized by the Bond Resolution, together with any refunding bonds authenticated and delivered pursuant to the Bond Resolution, in each case in order to provide the source of funding or refunding of the Loan to the Governmental Agency pursuant to this Loan Agreement.

“**Authorized Officer**” means, in the case of the Governmental Agency, the person whose name is set forth in Exhibit B hereto or such other person or persons authorized pursuant to the Authorizing Ordinance of the governing body of the Governmental Agency to act as an Authorized Officer of the Governmental Agency to perform any act or execute any document relating to the Loan, the Governmental Agency Bond or this Loan Agreement whose name is furnished in writing to the Authority.

“**Authorizing Ordinance**” means Ordinance No. _____ of the City Council of the City of Steamboat Springs, Colorado, acting by and through the City of Steamboat Springs Utility Fund Enterprise.

“**Bond Resolution**” means the Water Resources Revenue Bond Resolution (City of Steamboat Springs, Colorado Water and Wastewater Utility Fund Enterprise Project), as adopted by the Authority on June 3, 2011, authorizing the issuance of the Authority Bonds, and all further amendments and supplements thereto adopted in accordance with the provisions thereof.

“**City**” means the City of Steamboat Springs, Colorado.

“**Closing Date**” means the date set forth in Exhibit B hereto and is the date upon which the Authority will deliver the initial Authority Bonds.

“**Code**” means the “Internal Revenue Code of 1986,” as the same may from time to time be amended and supplemented, including any regulations promulgated thereunder and any administrative or judicial interpretations thereof.

“**Cost**” means those costs that are reasonable, necessary and allocable to the Project and are permitted by generally accepted accounting principles to be costs of the Project.

“Event of Default” means any occurrence or event specified in Section 5.01 hereof.

“Governmental Agency” means the City of Steamboat Springs, Colorado, Acting By And Through the City of Steamboat Springs Utility Fund Enterprise, and its successors and assigns.

“Governmental Agency Bond” means the bond executed and delivered by the Governmental Agency to the Authority to evidence the Loan, the form of which is attached hereto as Exhibit D and made a part hereof.

“Holder” means any holder of Authority Bonds as defined under the Bond Resolution.

“Loan” means the loan made by the Authority to the Governmental Agency to finance or refinance a portion of the Cost of the Project pursuant to this Loan Agreement. For all purposes of this Loan Agreement, the principal amount of the Loan at any time shall be equal to the principal amount of the Authority Bonds then outstanding, less any portion of such principal amount as has been repaid by the Governmental Agency under this Loan Agreement.

“Loan Agreement” means this Loan Agreement, including the Exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof and of the Bond Resolution.

“Loan Repayments” means the payments payable by the Governmental Agency pursuant Section 3.03 of this Loan Agreement, including payments payable under the Governmental Agency Loan.

“Loan Term” means the period commencing on the Closing Date and ending on the date set forth in paragraph (4) of Exhibit B attached hereto and made a part hereof.

“Official Statement” means the Official Statement of the Authority, dated April __, 2011, relating to the initial series of Authority Bonds.

“Pledged Property” means the defined term of this Loan Agreement set forth in paragraph (4) of Exhibit A attached hereto and made a part hereof.

“Prime Rate” means the prevailing commercial interest rate announced by the Trustee from time to time as its prime lending rate.

“Project” means the project of the Governmental Agency described in paragraph (1) of Exhibit A attached hereto and made a part hereof, all or a portion of the Cost of which is financed or refinanced by the Authority through the making of the Loan under this Loan Agreement.

“Project Fund” means the Project Fund created under the Bond Resolution.

“**Revenues**” means the defined term of this Loan Agreement set forth in paragraph (4) of Exhibit A attached hereto and made a part hereof.

“**2011 Series B Bond Insurer**” means Assured Guaranty Municipal Corp. and its successors and assigns.

“**2011 Series B Bonds**” means the Authority Bonds designated “Water Resources Revenue Bonds (City of Steamboat Springs, Colorado Water and Wastewater Utility Fund Enterprise Project), 2011 Series B.”

“**System**” means the property and facilities of the Governmental Agency, including the Project, described in paragraph (2) of Exhibit A attached hereto and made a part hereof for which the Governmental Agency is making the borrowing under this Loan Agreement, as such System may be modified or expanded from time to time.

“**Trustee**” means the Trustee appointed by the Authority pursuant to the Bond Resolution and its successor or successors and any other corporation which may at any time be substituted in its place as Trustee pursuant to the Bond Resolution.

Terms not otherwise defined herein shall have the meanings ascribed to them in the Bond Resolution.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

ARTICLE II.

REPRESENTATIONS AND COVENANTS OF GOVERNMENTAL AGENCY

SECTION 2.01 Representations of Governmental Agency. The Governmental Agency represents for the benefit of the Authority and the holders of the Authority Bonds as follows:

- (a) Organization and Authority.
 - (i) The Governmental Agency is a governmental agency as defined in the Act and is a utility activity business owned by the City and generally known as the “City of Steamboat Springs acting by and through its Water and Wastewater Utility Fund Enterprise,” which is a government owned business which receives less than ten percent (10%) of its annual revenues in grants from all Colorado State and local governments combined.
 - (ii) The Governmental Agency has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to execute, issue and deliver

the Governmental Agency Bond, to undertake and complete the Project and other than any required approvals, consents or registrations or as filing with any governmental or public agency or person and licenses and permits relating to the construction and acquisition of the Project which the Governmental Agency reasonably expects to receive in the ordinary course of business Agency, and to carry out and consummate all transactions contemplated by this Loan Agreement. The Project is a project which the Governmental Agency may undertake pursuant to Colorado law and for which the Governmental Agency is authorized by law to borrow money.

- (iii) The proceedings of the Governmental Agency's governing body approving this Loan Agreement and the Governmental Agency Bond and authorizing their execution, issuance and delivery on behalf of the Governmental Agency, and authorizing the Governmental Agency to undertake and complete the Project have been or will be duly and lawfully adopted in accordance with the laws of Colorado and such proceedings were or will be duly approved and published, if necessary, in accordance with applicable Colorado law, at a meeting or meetings which were duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present and acting throughout.
- (iv) This Loan Agreement and the Governmental Agency Bond, when delivered on the Closing Date, will have been duly authorized, executed and delivered by an Authorized Officer of the Governmental Agency; and, assuming that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered this Loan Agreement, this Loan Agreement and the Governmental Agency Bond when delivered to the Authority will constitute the legal, valid and binding obligations of the Governmental Agency in accordance with their respective terms, and the information contained under "Description of the Loan" in Exhibit B attached hereto and made a part hereof is true and accurate in all respects.

(b) Full Disclosure.

There is no known fact that the Governmental Agency has not disclosed in writing to the Authority or in Appendix C to the Official Statement or otherwise that materially adversely affects the properties, activities or condition (financial or otherwise) of the Governmental Agency of the System, or the ability of the Governmental Agency to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Governmental Agency Bond.

(c) Pending Litigation.

Except as set forth in the Official Statement, there are no proceedings pending, or, to the knowledge of the Governmental Agency, after due inquiry, threatened, against or affecting the Governmental Agency, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities or condition (financial or otherwise) of the Governmental Agency or the System, or the ability of the Governmental Agency to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Governmental Agency Bond, that have not been disclosed in writing to the Authority in the Governmental Agency's application for the Loan or otherwise to the Authority.

(d) Compliance with Existing Laws and Agreements.

The authorization, execution and delivery of this Loan Agreement and the Governmental Agency Bond by the Governmental Agency, the observation and performance by the Governmental Agency of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions provided for in this Loan Agreement and the Governmental Agency Bond, the compliance by the Governmental Agency with the provisions of this Loan Agreement and the Governmental Agency Bond and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Governmental Agency pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than the lien and charge of (i) this Loan Agreement and the Governmental Agency Bond and (ii) any ordinance, resolution or indenture which authorized outstanding debt obligations of the Governmental Agency which are on a parity with, or superior to, the Governmental Agency Bond as to lien on, and source and security for, payment thereon from the Pledged Property) to which the Governmental Agency is a party or by which the Governmental Agency, the System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Governmental Agency was established or any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the Governmental Agency, the System or its properties or operations is subject.

(e) No Defaults.

No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement and the Governmental Agency Bond or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Governmental Agency is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it, the System or its property may be bound, which violation would materially adversely affect the properties, activities or condition (financial or otherwise) of the Governmental Agency or the System or the ability of the Governmental Agency to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Governmental Agency Bond.

(f) Governmental Consent.

The Governmental Agency has obtained all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental body or officer) for the making, observance and performance by the Governmental Agency of its duties, covenants, obligations and agreements under this Loan Agreement and the Governmental Agency Bond or for the undertaking or completion of the Project other than any required approvals, consents or authorizations of or registrations of or filings with any governmental or public person or agency and permits and approvals relating to the Southern Delivery System portion of the Project which are expected to be obtained by entities other than the Governmental Agency and the financing or refinancing thereof; and the Governmental Agency has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Governmental Agency of its duties, covenants, obligations and agreements under this Loan Agreement and the Governmental Agency Bond or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer that has not been obtained (or that is not reasonably expected to be obtained) is required on the part of the Governmental Agency as a condition to the authorization, execution and delivery of this Loan Agreement and the Governmental Agency Bond, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(g) Compliance with Law.

The Governmental Agency (i) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Governmental Agency to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Governmental Agency or the System; and (ii) has obtained all licenses, permits or other governmental authorizations presently necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the Governmental Agency to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Governmental Agency or the System other than any required approvals, consents or authorizations of or registrations of or filings with any governmental or public person or agency and licenses, permits or other governmental authorizations relating to the construction and acquisition of the Project which the Governmental Agency expects to receive in the ordinary course of business and other than licenses, permits or other governmental authorizations relating to the Southern Delivery System portion of the Project which are expected to be obtained by entities other than the Governmental Agency.

(h) Use of Proceeds.

The Governmental Agency will apply the proceeds of the Loan from the Authority (i) to finance or refinance a portion of the Cost of the Project; and (ii) where applicable, to reimburse the Governmental Agency for a portion of the Cost of the Project, which portion was paid or incurred in anticipation of reimbursement by the Authority.

SECTION 2.02 Particular Covenants of the Governmental Agency.

(a) Source of Repayment Pledge.

The Governmental Agency irrevocably pledges and grants a lien (but not an exclusive lien) on the Pledged Property for the punctual payment of the Loan Repayments.

(b) Performance Under Loan Agreement.

The Governmental Agency covenants and agrees (i) to maintain the System in good repair and operating condition; (ii) to cooperate with the Authority in the observance and performance of the respective duties, covenants, obligations and agreements of such Governmental Agency and the Authority under this Loan Agreement; and (iii) to comply with the covenants described in Exhibits A and F to this Loan Agreement.

(c) Completion of Project and Provision of Moneys Therefor.

The Governmental Agency covenants and agrees (i) to exercise its best efforts in accordance with prudent water and electric utility practice to complete the Project; and (ii) to provide from the Pledged Property all moneys, in excess of the total amount of loan proceeds it receives under the Loan, required to complete the Project.

(d) Disposition of the System.

Except for the disposal of assets of the System up to a cumulative amount of \$300,000, and except for the disposal of any portion of the System which the Governmental Agency determines is no longer necessary for the operation of the System, the Governmental Agency shall not sell, lease, abandon or otherwise dispose of all or substantially all of the System, or any other component of the System which provides revenues to provide for the payment of this Loan Agreement or the Governmental Agency Bond except on ninety (90) days' prior written notice to the Authority and the 2011 Series B Bond Insurer and, in any event, shall not so sell, lease, abandon or otherwise dispose of the same unless the following conditions are met: (i) the Governmental Agency shall assign this Loan Agreement in accordance with Section 4.02 hereof and its rights and interests hereunder to the purchaser or lessee of the System and such purchaser or lessee shall assume all duties, covenants, obligations and agreements of the Governmental Agency under this Loan Agreement; and (ii) the Authority shall by appropriate action determine, in its sole discretion, that such sale, lease, abandonment or other disposition will not adversely affect the Authority's ability to meet its duties, covenants, obligations and agreements under the Bond Resolution, will not adversely affect the value of this Loan Agreement as security for the payment of Authority Bonds and interest thereon, and adversely affect the eligibility of interest on Authority Bonds then outstanding for exclusion from gross income for purposes of Federal income taxation.

(e) Exclusion of Interest from Federal Gross Income and Compliance with Code.

- (i) The Governmental Agency covenants and agrees that it shall not take or permit any action or fail to take any action which action or omission would result in the loss of the exclusion of the interest on any Authority

Bonds from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

- (ii) The Governmental Agency covenants and agrees that it shall not take or permit any action or fail to take any action, which action or omission would cause the Authority Bonds to be “private activity bonds” within the meaning of section 141(a) of the Code. Accordingly, unless the Governmental Agency receives the prior written approval of the Authority, and subject to the conditions of Section 2.02(d)(ii), the Governmental Agency shall neither (A) permit in excess of 10 percent of either (1) the proceeds (as such term is used in Section 141 of the Code) of the Authority Bonds loaned to the Governmental Agency or (2) the Project financed with the proceeds of the Authority Bonds loaned to the Governmental Agency, to be used directly or indirectly in any manner that would constitute “private business use” within the meaning of Section 141(b)(6) of the Code, nor (B) use directly or indirectly any of the proceeds of the Authority Bonds loaned to the Governmental Agency to make or finance loans to persons other than governmental units (as such term is used in section 141(c) of the Code); provided further, that more than one half of the private business use permitted by clause (A) shall be neither (1) disproportionate related business use, nor (2) private business use not related to the government use of such proceeds of the Authority Bonds, as those terms are used in Section 141(b)(3) of the Code.
- (iii) The Governmental Agency covenants and agrees that it shall not directly or indirectly use or permit the use of any proceeds of the Authority Bonds (or amounts treated as replaced with such proceeds) or any other funds, or take or permit any action or fail to take any action, which use, action or omission would cause the Authority Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.
- (iv) The Governmental Agency covenants and agrees that it shall not use or permit the use of any portion of the proceeds of the Authority Bonds to retire any other obligations of the Governmental Agency or any other entity, unless the Governmental Agency obtains the written consent of the Authority and the 2011 Series B Bond Insurer, which consent may be given or withheld in the Authority’s and the 2011 Series B Bond Insurer’s discretion.
- (v) The Governmental Agency covenants and agrees to maintain records of its investments, if any, of proceeds of the Authority Bonds loaned to the Governmental Agency and earnings thereon, and will maintain records of expenditures of such amounts. The Governmental Agency will pay to the Authority any earnings on proceeds of the Authority Bonds loaned to the Governmental Agency (including earnings on such earnings) which, in the opinion of the Authority, are required to be rebated to the United States Treasury Department which payments shall be made on a timely basis to

enable the Authority to pay such rebate amounts. The Governmental Agency will provide copies of all records of its investment of such moneys and of its expenditures to the Authority on a periodic basis upon request by the Authority and will furnish to the Authority, in writing, information regarding any facilities financed or refinanced therewith.

- (vi) Notwithstanding anything to the contrary, as long as is necessary to maintain the exclusion of interest on the Authority Bonds from gross income for Federal income tax purposes, the covenants contained in this subsection (e) shall survive the payment of the Authority Bonds and the interest thereon, including any payment pursuant to Section 12.01 of the Bond Resolution or prepayment pursuant to Section 3.07 of this Loan Agreement, respectively.
- (vii) Neither the Governmental Agency nor any of its agencies shall, pursuant to any arrangement formal or informal, purchase Authority Bonds in an amount related to the amount of the Loan.
- (viii) The Governmental Agency hereby certifies and represents that it has complied with the requirements of Treasury Regulation Section 1.150-2 in its Authorizing Ordinance or other official action with regard to proceeds of the Authority Bonds, if any, to be used to reimburse the Governmental Agency for expenses incurred by the Governmental Agency prior to the issuance of the Authority Bonds. In the event that any of the proceeds of the Authority Bonds are to be used to pay debt service on any prior issue of the Governmental Agency, and any of the proceeds of such prior issue (or any obligations refinanced by such prior issue) were used to reimburse the Governmental Agency for expenditures incurred prior to the issuance of the prior issue (or refinanced obligations, as the case may be), the Governmental Agency hereby certifies and represents that the allocation of such proceeds to the reimbursed expenditure was a valid expenditure under the applicable law on reimbursement expenditures on the date of issue of the prior issue (or the refinanced obligations), as required by Federal Income Tax Regulation Section 1.150-2(g)(2).
- (ix) By executing this Loan Agreement, the Governmental Agency hereby certifies, represents and agrees that:
 - (1) The proceeds of the Authority Bonds to be loaned to the Governmental Agency pursuant to this Loan Agreement do not, taking into account available earnings thereon, exceed the amount necessary to pay for the costs of the Project, including costs of issuance of the Authority Bonds allocated to the Loan.
 - (2) The Governmental Agency has entered into (or will enter into within six months from the date hereof) a substantial binding obligation to

a third party to expend on the Project at least five percent of the net proceeds of the Authority Bonds loaned to the Governmental Agency.

(3) The Governmental Agency reasonably expects that 85% of the proceeds of the Loan will be expended within three years from the Closing Date of the initial series of Authority Bonds. Work on the acquisition, construction or accomplishment of the Project will proceed with due diligence to completion.

(4) The total proceeds of the sale of all obligations issued to date for the Project do not exceed the total Costs of the Project, taking into account available earnings thereon.

(5) The Governmental Agency does not expect that the Project will be sold, leased or otherwise disposed of in whole or in part during the term of the Loan or of the Authority Bonds or for any portion of the term of the Loan or of the Authority Bonds. The Governmental Agency shall not sell, lease or otherwise dispose of the Project in whole or in part during the term of the Loan or of the Authority Bonds or for any portion of the term of the Loan or of the Authority Bonds unless the conditions of Sections 2.02(d)(i) and (ii) have been satisfied.

(6) Any fund established, utilized or held by or on behalf of the Governmental Agency to pay debt service on the Loan will be used to achieve a proper matching of revenues and debt service and will be depleted at least annually except for a reasonable carryover amount not to exceed earnings on the fund for the immediately preceding year or 1/12 of the annual debt service on the Loan for the immediately preceding year.

(7) No portion of the amounts received from the Loan will be used as a substitute for other funds which were otherwise to be used as a source of financing for the Project and which have been or will be used to acquire, directly or indirectly, obligations producing a yield in excess of the yield on the Authority Bonds. The Governmental Agency does not expect to receive any amounts in the future that are intended to finance the portion of the Project being financed with proceeds of the Loan. No portion of the amounts received from the Loan will be used to finance working capital expenditures. The Loan has a weighted average maturity that does not exceed 120 percent of the average reasonably expected economic life of the capital projects financed by the Loan.

(8) No portion of the proceeds of the Loan will be invested, directly or indirectly, in federally-insured deposits or accounts, or federally-guaranteed investments, other than amounts of unexpended Loan proceeds invested in the debt service fund, in any reasonably required reserve or replacement fund, or investments of unexpended Loan proceeds for any

remaining initial temporary period (e.g., no later than three years after the Closing Date) until the proceeds are needed for the Project.

(9) No other obligations of the Governmental Agency (1) are reasonably expected to be paid out of substantially the same source of funds (or will have substantially the same claim to be paid out of substantially the same source of funds) as will be used to pay the Loan; and (2) are being sold at substantially the same time as the Loan (i.e., less than 15 days apart); and (3) were sold pursuant to the same plan of financing with the Loan.

(10) The Governmental Agency has neither received notice that its certifications as to expectations may not be relied upon with respect to its obligations nor has it been advised that any adverse action by the Commissioner of the Internal Revenue is contemplated.

(11) To the best of the knowledge and belief of the undersigned officer of the Governmental Agency, the facts and estimates set forth in this subsection of the Loan Agreement on which the Governmental Agency's expectations as to the application of the proceeds of the Authority Bonds loaned to the Governmental Agency are based, are reasonable.

(12) None of the proceeds of the Authority Bonds loaned to the Governmental Agency and held by the Governmental Agency will be invested in investments having a substantially guaranteed yield of four years or more.

(f) Operation and Maintenance of the System.

The Governmental Agency covenants and agrees that it shall, in accordance with prudent water treatment, and electric utility practice, (i) at all times operate the properties of the System and any business in connection therewith in an efficient manner, (ii) maintain the System in good repair, working order and operating condition, (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted; provided, however, this covenant shall not be construed as requiring the Governmental Agency to expend any funds which are derived from sources other than the Revenue and provided further that nothing herein shall be construed as preventing the Governmental Agency from doing so.

(g) Records; Accounts.

The Governmental Agency shall keep accurate records and accounts for the System (the "System Records"), separate and distinct from its other records and accounts (the "General Records"). Such System Records shall be maintained in accordance with GAAP and shall be audited annually by an independent accountant, which audit may be part of the annual audit of the General Records of the Governmental Agency. Such System Records and General Records shall be made available for inspection by the Authority and the 2011 Series B Bond

Insurer at any reasonable time, and a copy of such annual audit(s) shall be furnished to the Authority and the 2011 Series B Bond Insurer within 210 days of the close of the fiscal year being so audited.

(h) Inspections; Information.

The Governmental Agency shall permit the Authority and the 2011 Series B Bond Insurer, and any party designated by the Authority or the 2011 Series B Bond Insurer, to examine, visit and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the Authority may reasonably require in connection therewith.

(i) Insurance.

The Governmental Agency shall maintain or cause to be maintained, in force, insurance policies with responsible insurers or self insurance programs providing against risk of direct physical loss, damage or destruction of the System, at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining facilities of the nature of the System, including liability coverage, all to the extent available at reasonable cost. Nothing herein shall be deemed to preclude the Governmental Agency from exerting against any party, other than the Authority, a defense which may be available to the Governmental Agency, including, without limitation, a defense of sovereign immunity, a defense under and pursuant to the Colorado Governmental Immunity Act (Section 24-10-101, et seq., C.R.S.), or under the laws of the United States or other laws of the State of Colorado.

(j) Cost of Project.

The Governmental Agency certifies that the Cost of the Project, as listed in paragraph (2) of Exhibit B hereto and made a part hereof, is a reasonable and accurate estimation and upon direction of the Authority will supply the same with a certificate from its engineer stating that such Cost is a reasonable and accurate estimation, taking into account investment income to be realized during the course of the Project and other money that would, absent the Loan, have been used to pay the Cost of the Project.

(k) Notice of Material Adverse Change.

The Governmental Agency shall promptly notify the Authority and the 2011 Series B Bond Insurer of any material adverse change in the financial condition of the Governmental Agency relating to the System, or in the ability of the Governmental Agency to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Governmental Agency Bond from the Pledged Property. The Governmental Agency shall provide such financial information relating to the Governmental Agency as the Authority and the 2011 Series B Bond Insurer may reasonably require in connection with the issuance of Authority Bonds pursuant to the Bond Resolution.

(l) Additional Covenants and Requirements.

The Governmental Agency agrees to observe and comply with each such additional covenant and requirement, included on Exhibit F during the Loan Term.

SECTION 2.03 Obligation to Provide Continuing Disclosure.

The Governmental Agency shall undertake, as an obligated person pursuant to the Rule 15c2-12, for the benefit of Holders of the Authority Bonds, to provide continuing disclosure pursuant to the Continuing Disclosure Undertaking set forth in the Official Statement. The Governmental Agency shall provide copies to the Authority and the 2011 Series B Bond Insurer.

ARTICLE III.

**LOAN TO GOVERNMENTAL AGENCY; AMOUNTS PAYABLE;
GENERAL AGREEMENTS**

SECTION 3.01 The Loan. The Authority hereby agrees to loan and disburse to the Governmental Agency in accordance with Section 3.02 hereof, and the Governmental Agency agrees to borrow and accept from the Authority, the Loan; provided, however, that (i) the Authority shall be under no obligation to make the Loan if the Governmental Agency does not deliver a Governmental Agency Bond to the Authority on the Closing Date or an Event of Default has occurred and is continuing under the Bond Resolution or this Loan Agreement, and (ii) the proceeds of Authority Bonds shall be available for disbursement, as determined solely by the Authority, to finance the Cost of the Project. The Governmental Agency shall use the proceeds of the Loan strictly in accordance with Section 2.01(h) hereof, to finance the Cost of the Project.

SECTION 3.02 Disbursement of Loan Proceeds. The Trustee, as the agent of the Authority, shall disburse the amounts on deposit in the Project Fund to the Governmental Agency upon receipt of a requisition executed by an Authorized Officer thereof and approved by the Authority (which approval shall not be unreasonably withheld), in the form set forth in the Bond Resolution.

The Authority covenants to direct the Trustee to provide all periodic written reports (as required by the provisions of the Bond Resolution) of all moneys on deposit under the Bond Resolution and to furnish such reports to the Governmental Agency as soon as practicable after receipt by the Authority.

The Authority hereby agrees that in the event that moneys on deposit in the Project Fund are lost due to the negligence or misconduct of the Trustee, the Authority on behalf of the Governmental Agency, shall, upon the written request of the Governmental Agency, pursue its remedies against the Trustee, including, but not limited to, equitable actions or actions for money damages.

If there are moneys on deposit in the Project Fund upon completion of the Project, the Governmental Agency shall advise the Authority in writing that no further requisitions are to be submitted to the Authority for disbursement of moneys from the Project Fund. Upon receipt

of such written advice, the Authority shall file with the Trustee the Certificate required by Section 5.02(3) of the Bond Resolution and use such moneys to redeem, purchase or provide for the payment of the Authority Bonds. The Authority shall credit ensuing Loan Repayments or portions thereof chosen by the Authority as a result of the use of such moneys to purchase, redeem or pay Authority Bonds.

SECTION 3.03 Amounts Payable.

(a) The Governmental Agency shall repay by electronic means the principal of and interest on the Loan in accordance with the schedule set forth on Exhibit C attached hereto and made a part hereof, as the same may be amended or modified, pursuant to Section 6.04 hereof.

The Governmental Agency shall execute the Governmental Agency Bond to evidence the Loan and the obligations of the Governmental Agency under this Loan Agreement shall be deemed amounts payable under this section 3.03. Each portion of the Loan Repayment payable under this subsection (a), whether satisfied entirely through a direct payment by the Governmental Agency to the Trustee or through a combination of a direct payment and the use of investment income as described in subsection (c) of this Section 3.03 or as provided in the last sentence of Section 3.02 to pay interest on the Authority Bonds (and to the extent moneys are available therefor, principal of the Authority Bonds), shall be deemed to be a credit against the corresponding obligation of the Governmental Agency under this subsection (a) and shall fulfill the Governmental Agency's obligation to pay such amount hereunder and under the Governmental Agency Bond. Each payment made to the Trustee pursuant to this subsection shall be applied first to interest then due and payable on the Loan, then to the principal of the Loan.

In the event the Authority issues refunding bonds pursuant to the Bond Resolution in order to refinance the Authority Bonds which refunding results in a decrease in total aggregate Loan Repayments, the Authority shall amend Exhibit C to reflect such decrease in total aggregate Loan Repayments by the net savings realized by the Authority from the refunding of all or any portion of the Authority Bonds.

(b) The Governmental Agency shall pay all Insurer Advances pursuant to Section 2.07(n) of the Bond Resolution.

(c) The Governmental Agency shall receive as a credit against each of its semiannual interest payment obligations set forth on Exhibit C attached hereto and made a part hereof (and, as applicable under the Bond Resolution, its annual principal obligations to the extent moneys are available therefor), the amount of investment income, if any, on the Debt Service Fund; provided, however, that the investment income shall be credited by the Authority at such time and in such manner as the Authority deems equitable.

(d) In addition to the payments required by subsection (a) of this Section 3.03, the Governmental Agency shall pay a late charge for any payment that is received by the Trustee later than the fifth (5th) day following its due date, in an amount equal to the greater of (i) twelve percent (12%) per annum or (ii) the Prime Rate plus one half of one percent per annum, on such late payment from its due date until it is actually paid; provided, however, that the interest rate

payable on the Loan including such late charge shall not be in excess of the maximum rate permitted by law as of the date hereof.

(e) The Governmental Agency acknowledges that payment of the Authority Bonds by the Authority, including payment from moneys drawn by the Trustee from the Debt Service Reserve Fund (including any surety bond deposited therein) other than from the investment income thereon, does not constitute payment of the amounts due under this Loan Agreement or the Governmental Agency Bond. If at any time the amounts on deposit in the Debt Service Reserve Fund shall be less than the requirement therefore as the result of any valuation of any investment securities on deposit therein or any transfer of moneys (including any draws on a surety bond) from the Debt Service Reserve Fund to the Debt Service Fund as the result of failure by the Governmental Agency to make any Loan Repayments required hereunder, the Governmental Agency agrees to (i) replenish any deficiency or (ii) replenish any amounts drawn from a surety bond (including the 2011 Series B Reserve Policy (as defined in the Bond Resolution) by making payments to the Authority in equal monthly installments for the lesser of six (6) months or the remaining term of the Loan in amounts necessary to make up any loss caused by such deficiency and (iii) pay any interest required to be paid by the Authority on amounts drawn on a surety bond, including amounts due to the 2011 Series B Reserve Insurer (as defined in the Bond Resolution) pursuant to Section 5.06(f) of the Bond Resolution, provided, however, that any amounts paid pursuant to this said clause (iii) shall be in lieu of, and not in addition to, the late payments required to paid pursuant to subsection (d) of this Section 3.03.

SECTION 3.04 Unconditional Obligations. The obligations of the Governmental Agency to make the Loan Repayments and all other payments required hereunder and to perform and observe the other duties, covenants, obligations and agreements on its part contained herein shall be payable solely from the Net Revenues and shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments under this Loan Agreement remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or the System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State of Colorado or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the Authority or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project, this Loan Agreement or the Bond Resolution or any rights of set off, recoupment, abatement or counterclaim that the Governmental Agency might otherwise have against the Authority, the Trustee or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

SECTION 3.05 Loan Agreement to Survive Bond Resolution and Authority Bonds. The Governmental Agency acknowledges that its duties, covenants, obligations and agreements hereunder shall survive the discharge of the Bond Resolution and payment of the principal of, redemption premium, if any, and interest on the Authority Bonds. The Authority acknowledges that all duties, covenants, obligations and agreements of the Governmental Agency shall (except as and to the extent preserved in subsection (e)(vi) of

Section 2.02 hereof) terminate upon the date of payment of all amounts payable to the Authority and the 2011 Series B Bond Insurer hereunder.

SECTION 3.06 Disclaimer of Warranties and Indemnification. The Governmental Agency acknowledges and agrees that (i) neither the Authority nor the Trustee makes any warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System or the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) except as provided herein, in no event shall the Authority or the Trustee or their respective agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the System or the Project or any item or products or services provided for in this Loan Agreement; and (iii) only to the extent authorized by law, the Governmental Agency shall indemnify, save and hold harmless the Authority against any and all claims, damages, liability and court awards including costs, expenses and attorney fees incurred as a result of any act or omission by the Governmental Agency, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement, provided however that the provisions of this clause (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the Colorado Governmental Immunity Act (Section 24-10-101, et seq., C.R.S.), or under the laws of the United States or other laws of the State of Colorado.

SECTION 3.07 Option to Prepay Loan Repayments. Subject in all instances to the prior written approval of the Authority, which approval will not be unreasonably withheld, and satisfaction of the requirements, if any, of the Bond Resolution relating to Loan prepayments, the Governmental Agency may prepay the principal portion of the Loan Repayments set forth in Exhibit C, in whole or in part (but if in part, in the amount of \$100,000 or any integral multiple of \$100,000), upon prior written notice not less than fifteen (15) days in addition to the number of days advance notice to the Trustee required for any optional or special redemption date of the Authority Bonds, to the Authority and the Trustee and upon payment by the Governmental Agency to the Trustee of the principal amount of the Loan Repayments to be prepaid, plus the interest to accrue on such amount to the date of the next succeeding optional redemption date of the Authority Bonds allocable to such Loan Repayment to be prepaid. In addition, if at the time of such prepayment, the Authority Bonds may only be redeemed at the option of the Authority upon payment of a redemption premium, the Governmental Agency shall add to its prepayment an amount, as determined by the Authority, equal to such redemption premium allocable to such Authority Bonds to be redeemed as a result of the Governmental Agency's prepayment. Prepayments shall be applied first to accrued interest on the portion of the Loan to be prepaid and then to principal payments (including redemption premium, if any) on the Loan in inverse order of Loan Repayments or such order as may be agreed upon by the Authority and the Governmental Agency.

The Governmental Agency, in the sole discretion of the Authority, and upon terms and conditions satisfactory to the Authority, may provide for the prepayment in full of the Loan Repayments by depositing with the Authority an amount which, when added to the investment income to be derived from such amount to be deposited with the Authority, shall provide for the full payment of all such Loan Repayments in the manner provided in this Section

3.07. Any amounts so deposited with the Authority shall be invested solely in direct obligations of the United States of America.

The provisions of this Section 3.07 shall not be applicable to any mandatory or extraordinary redemption or acceleration required by the Bond Resolution.

SECTION 3.08 Source of Payment of Governmental Agency's Obligations. The Authority and the Governmental Agency agree that the amounts payable by the Governmental Agency under this Loan Agreement, including, without limitation, the amounts payable by the Governmental Agency pursuant to Section 3.03, Section 3.06, Section 3.07 and Section 5.04 of this Loan Agreement are payable solely from the Revenues and are not payable from any other source whatsoever. Nothing herein shall be deemed to prevent the Governmental Agency from paying the amounts payable under this Loan Agreement from any other legally available source. The obligations of the Governmental Agency under this Loan Agreement do not constitute a debt or indebtedness of the City within the meaning of any constitutional, charter or statutory provision or limitations, and shall not be considered or held to be a general obligation of the Governmental Agency.

SECTION 3.09 Delivery of Documents. On the Closing Date, the Governmental Agency will cause to be delivered to the Authority and the 2011 Series B Bond Insurer each of the following items:

- (a) opinions of the Governmental Agency's counsel substantially in the form set forth in Exhibit E-1 and E-2 hereto (such opinion may be given by one or more counsel);
- (b) executed counterparts of this Loan Agreement and an executed Governmental Agency Bond;
- (c) copies of the Authorizing Ordinance, certified by an Authorized Officer of the Governmental Agency; and
- (d) such other certificates, documents, opinions and information as the Authority may require.

ARTICLE IV.

ASSIGNMENT

SECTION 4.01 Assignment and Transfer by Authority.

- (a) The Governmental Agency expressly acknowledges that, other than the right, title and interest of the Authority under Sections 3.06, 5.04 and 5.07, all right, title and interest of the Authority in, to and under this Loan Agreement and the Governmental Agency Bond has been assigned to the Trustee as security for the Authority Bonds, as applicable, as provided in the Bond Resolution, and that if any Event of Default shall occur, the Trustee, pursuant to the Bond Resolution, shall be entitled to act hereunder in the place and stead of the Authority. The Governmental Agency hereby acknowledges

the requirements of the Bond Resolution applicable to the Authority Bonds and consents to such assignment and appointment.

The Authority shall retain the right to compel or otherwise enforce observance and performance by the Governmental Agency of its duties, covenants, obligations and agreements under Section 3.06 and Section 5.04.

(b) The Governmental Agency hereby approves and consents to any assignment or transfer of this Loan Agreement and the Governmental Agency Bond that the Authority deems to be necessary in connection with any refunding of the Authority Bonds.

SECTION 4.02 Assignment by Governmental Agency. Neither this Loan Agreement nor the Governmental Agency Bond may be assigned by the Governmental Agency for any reason, unless the following conditions shall be satisfied: (i) the Authority, the 2011 Series B Bond Insurer and the Trustee shall have approved said assignment in writing; (ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Governmental Agency's duties, covenants, agreements and obligations under the Loan Agreement; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Governmental Agency under the Loan Agreement; (iv) the Authority shall have received an opinion of bond counsel to the Authority to the effect that such assignment will not adversely affect the exclusion of interest on the Authority Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code; and (v) the Authority shall receive an opinion of counsel to the Authority to the effect that such assignment will not violate the provisions of the Bond Resolution. All costs incurred by the Authority pursuant to this Section 4.02 shall be paid by the Governmental Agency.

No assignment shall relieve the Governmental Agency from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Governmental Agency shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

ARTICLE V.

DEFAULTS AND REMEDIES

SECTION 5.01 Event of Default. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) failure by the Governmental Agency to pay, or cause to be paid, any Loan Repayment, required to be paid hereunder when due, which failure shall continue for a period of five (5) days;

(b) failure by the Governmental Agency to make, or cause to be made, any required payments of principal of, redemption premium, if any, and interest on any bonds, notes or other obligations of the Governmental Agency for borrowed money (other than the Loan

and the Governmental Agency Bond), after giving effect to the applicable grace period, the payments of which are secured by the Pledged Property;

(c) failure by the Governmental Agency to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a) of this Section 5.01 and other than a failure to comply with the provisions of Section 2.03 hereof, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Governmental Agency by the Trustee, unless the Trustee shall agree (upon the prior written consent of the 2011 Series B Bond Insurer) in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period the Trustee may not unreasonably withhold its consent to an extension of such time up to sixty (60) days from the delivery of the written notice referred to above if corrective action is instituted by the Governmental Agency within the applicable period and diligently pursued until the Event of Default is corrected; and

(d) a petition is filed by or against the Governmental Agency under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Governmental Agency such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Governmental Agency shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the Governmental Agency or any of its property) shall be appointed by court order to take possession of the Governmental Agency or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days.

SECTION 5.02 Notice of Default. The Governmental Agency shall give the Trustee, the 2011 Series B Bond Insurer and the Authority prompt telephonic notice of the occurrence of any Event of Default referred to in Section 5.01(d) hereof, and of the occurrence of any other event or condition that constitutes an Event of Default at such time as any senior administrative or financial officer of the Governmental Agency becomes aware of the existence thereof. Any telephonic notice pursuant to this Section 5.02 shall be confirmed in writing by the end of the next Business Day (as defined in the Bond Resolution).

SECTION 5.03 Remedies on Default. Whenever an Event of Default referred to in Section 5.01 hereof shall have occurred and be continuing, the Authority shall have the right to take or to direct the Trustee to take any action permitted or required pursuant to the Loan Agreement and to take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Governmental Agency hereunder, including, without limitation, to obtain ex parte the appointment of a receiver of the System.

SECTION 5.04 Attorney's Fees and Other Expenses. The Governmental Agency shall on demand pay to the Authority, 2011 Series B Bond Insurer or the Trustee the

reasonable fees and expenses of attorneys and other reasonable fees and expenses (including without limitation the reasonably allocated costs of in-house counsel and legal staff) incurred by either of them in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Governmental Agency.

SECTION 5.05 Application of Moneys. Any moneys collected by the Authority or the Trustee pursuant to Section 5.03 hereof shall be applied (a) first, to pay any attorney's fees or other fees and expenses owed by the Governmental Agency pursuant to Section 5.04 hereof, (b) second, to pay interest due and payable on the Loan, (c) third, to pay principal due and payable on the Loan, (d) fourth, to pay any other amounts due and payable hereunder, and (e) fifth, to pay interest and principal on the Loan and other amounts payable hereunder as such amounts become due and payable.

SECTION 5.06 No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Authority or the Trustee is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

SECTION 5.07 Retention of Authority's Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof or of the Bond Resolution, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Governmental Agency at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Governmental Agency to the Authority pursuant to Section 3.03, Section 3.06 and Section 5.04 hereof.

SECTION 5.08 Default by the Authority. In the event of any default by the Authority under any duty, covenant, agreement or obligation of this Loan Agreement, the Governmental Agency's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Authority hereunder as may be necessary or appropriate. The Authority shall on demand pay to the Governmental Agency the reasonable fees and expenses of attorneys and other reasonable expenses in the enforcement of such performance or observation.

ARTICLE VI.

MISCELLANEOUS

SECTION 6.01 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand-delivered or mailed by registered or certified mail, postage prepaid, to the Governmental Agency at the address specified on Exhibit B attached hereto and made a part hereof and to the Authority, the 2011 Series B Bond Insurer and the Trustee at the following addresses:

- (a) Authority: Colorado Water Resources and Power Development Authority
1580 Logan Street, Suite 620
Denver, Colorado 80203
Attention: Executive Director
- (b) Trustee: Wells Fargo Bank, N.A.
1740 Broadway
MAC C7301-024
Denver, Colorado 80274
Attention: Corporate Trust Services
- (c) Bond Insurer: Assured Municipal Guaranty Corp.
31 West 52nd Street
New York, New York 10019
Attention: General Counsel

Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

SECTION 6.02 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Authority and the Governmental Agency and their respective successors and assigns.

SECTION 6.03 Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

SECTION 6.04 Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority, the 2011 Series B Bond Insurer and the Governmental Agency.

SECTION 6.05 Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 6.06 Applicable Law and Venue. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, including the Act. Venue for any action seeking to interpret or enforce the provisions of this Loan Agreement shall be in the Denver District Court.

SECTION 6.07 Consents and Approvals. Whenever the written consent or approval of the Authority shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Authority unless otherwise provided by law or by rules, regulations or resolutions of the Authority or unless expressly delegated to the Trustee.

SECTION 6.08 Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

SECTION 6.09 Compliance with Bond Resolution. The Governmental Agency covenants and agrees to take such action as the Authority shall reasonably request so as to enable the Authority to observe and comply with, all duties, covenants, obligations and agreements contained in the Bond Resolution insofar as such duties, covenants, obligations and agreements relate to the obligations of the Governmental Agency under this Loan Agreement.

SECTION 6.10 Further Assurances. The Governmental Agency shall, at the request of the Authority, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Loan Agreement and the Governmental Agency Bond.

SECTION 6.11 Recital. This Loan Agreement is authorized pursuant to and in accordance with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling. Specifically, but not by way of limitation, this Loan Agreement is authorized by the Governmental Agency pursuant to Title 11, Article 57, Part 2, C.R.S. Such recital shall conclusively impart full compliance with all provisions and limitations of such laws, and this Loan Agreement delivered by the Governmental Agency to the Authority containing such recital shall be incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Authority and the Governmental Agency have caused this Loan Agreement to be executed and delivered, as of June 1, 2011.

**COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY**

By: _____
Executive Director

(SEAL)

**CITY OF STEAMBOAT SPRINGS,
COLORADO ACTING BY AND THROUGH
THE CITY OF STEAMBOAT SPRINGS
UTILITY FUND ENTERPRISE**

By: _____
Mayor

ATTEST:

City Clerk

SECURITY DESCRIPTION

1. Description of Project

The Project consists of the cost of various drinking water and wastewater projects including water line additions, water main replacement and additions, final payment to Mt. Werner Water and Sanitation District for the Fish Creek Reservoir enlargement project, land acquisition and construction of a water storage tank, expansion of the joint Yampa Water Treatment facility, water meter upgrades, raw water irrigation to the City's Parks, design for Skyline Tank Zone redundancy, wastewater collection main replacement, Dream Island Interceptor design and replacement, infiltration and inflow reduction by removing roof drains and sump pump water from the sewer system and repairing sewer lines that leak into the groundwater, repairing pavement and adding an overlay to the road leading to the wastewater treatment plant, and repair and replacement of aging wastewater treatment plant equipment.

2. Description of System

"System" shall mean, the property and facilities comprising the water and sanitary system of the Governmental Agency at the time of delivery hereof, including real and personal property and any easements, and also any and all additions and betterments thereto and improvements and extensions hereafter constructed or acquired by the Governmental Agency and used in connection with the water and electric facilities of the Governmental Agency.

3. Lien Representation

The Pledged Property will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to the obligation of the Governmental Agency to pay this Loan Agreement and the Governmental Agency Bond, and all corporate or other action on the part of the Governmental Agency has been taken. Except for a loan dated May 1, 1995, from the Authority in the outstanding principal balance of \$445,585.09, and a loan dated July 1, 1999, from the Authority in the outstanding principal balance of \$1,467,818, and a loan dated May 1, 2001 from the Authority in the outstanding principal amount of \$3,533,057.60. there are no outstanding bonds, notes or evidences of indebtedness or contractual obligations payable from the Pledged Property with a lien on the Pledged Property which are on a parity with the lien of the Loan Agreement and Governmental Agency Bond on the Pledged Property. Except as permitted by Exhibit F hereto, the Governmental Agency shall not issue any bonds or other evidences of indebtedness of a similar nature payable out of or secured by a pledge, lien or assignment on the Pledged Property or create a lien or charge thereon.

4. Pledged Property

"*Pledged Property*" shall mean the Net Revenues (as defined in this paragraph 4 of Exhibit A of this Loan Agreement).

"*Net Revenues*" shall mean the Revenues less Operation and Maintenance Expenses.

“*Revenues*” shall mean all income and revenues directly or indirectly derived by the Government Agency from the operation and use of the System, or any part thereof, including without limitation, any rates, fees, plant investment fees, standby charges, availability fees, tolls, and charges for the services furnished by, or the use of, the System, and all income attributable to any past or future dispositions of property or rights or related contracts, settlements, or judgments held or obtained in connection with the System or its operations, and including investment income accruing from moneys held to the credit of the Revenue Fund.

“*Operation and Maintenance Expenses*” shall mean all reasonable and necessary current expenses of the Governmental Agency, paid or accrued, for operating, maintaining, and repairing the System, including without limitation legal and overhead expenses of the directly related to the administration of the System, insurance premiums, audits, charges of depository banks and paying agents, professional services, salaries and administrative expenses, labor, and the cost of materials and supplies for current operation; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance for depreciation, payments in lieu of taxes or franchise fees, legal liabilities not based on contract, expenses incurred in connection with capital improvements, payments due in connection with any bonds or other obligations issued to provide capital improvements, and charges for the accumulation of reserves.

5. Rate Covenant

The Governmental Agency shall establish and collect rates and charges for the use or the sale of the products and services of the System, which together with other moneys available therefor, are expected to produce Revenues (as defined in paragraph (4) of this Exhibit A to this Loan Agreement) for each calendar year which will be at least sufficient for such calendar year to pay the sum of:

- (a) all amounts estimated to be required to pay Operation and Maintenance Expenses (as defined in paragraph (4) of this Exhibit A of this Loan Agreement) during such calendar year;
- (b) a sum equal to 110% of the debt service due on the Governmental Agency Bond for such calendar year and debt service coming due during such calendar year on any indebtedness payable on a parity with the lien or charge of this Loan Agreement on the Pledged Property, in each case computed as of the beginning of such calendar year;
- (c) the amount, if any, to be paid during such calendar year into any debt service reserve account;
- (d) a sum equal to the debt service on any subordinated debt for such calendar year computed as of the beginning of such calendar year;
- (e) amounts necessary to pay and discharge all charges and liens payable out of the Revenues during such calendar year;

Notwithstanding anything contained above, amounts deposited in a rate stabilization account shall not be deemed Revenues (as defined in paragraph 4 of this Exhibit A

to this Loan Agreement) in the calendar year deposited and amounts withdrawn from the rate stabilization account shall be deemed Revenues (as defined in paragraph 4 of this Exhibit A to this Loan Agreement) in the year withdrawn.

DESCRIPTION OF THE LOAN

- 1. **Address of Governmental Agency:**
City of Steamboat Springs, Colorado
137 10th Street
P. O. Box 775088
Steamboat Springs, CO 80477

- 2. **Cost of Project:** \$13,285,000

- 3. **Maximum Principal Amount of Loan Commitment:** \$_____

- 4. **Loan Term:** The date commencing on the closing date and ending on the final Loan Repayment date set forth in Exhibit C.

- 5. **Description of the Project:** See Exhibit A (1)

- 6. **Authorized Officer:**

- 7. **Estimated Completion Date:** _____

- 8. **Closing Date:** _____

EXHIBIT C

GOVERNMENTAL AGENCY BOND

FOR VALUE RECEIVED, the undersigned, **CITY OF STEAMBOAT SPRINGS, COLORADO, ACTING BY AND THROUGH THE CITY OF STEAMBOAT SPRINGS UTILITY FUND ENTERPRISE**, (the “Governmental Agency”) hereby promises to pay to the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the “Authority”), or registered assigns, the principal amount of _____ Dollars (\$_____), at the times and in the amounts determined as provided in the Loan Agreement dated as of June 1, 2011, by and between the Authority and the Governmental Agency (the “Loan Agreement”), together with interest thereon in the amount calculated as provided in the Loan Agreement, payable on the dates and in the amounts determined as provided in the Loan Agreement.

This Governmental Agency Bond is issued pursuant to the Loan Agreement and is issued in consideration of the loan made thereunder (the “Loan”) and to evidence the obligations of the Governmental Agency under the Loan Agreement. The Governmental Agency Bond has been assigned to Wells Fargo Bank, National Association, as trustee (the “Trustee”) under the Bond Resolution (as defined in the Loan Agreement) and payments hereunder shall, except as otherwise provided in the Loan Agreement, be made directly to the Trustee for the account of the Authority pursuant to such assignment. Such assignment has been made as security for the payment of the Authority Bonds (as defined in the Bond Resolution) issued to finance or refinance, and in connection with, the Loan and as otherwise described in the Loan Agreement. All of the terms, conditions and provisions of the Loan Agreement are, by this reference thereto, incorporated herein as a part of this Governmental Agency Bond.

This Governmental Agency Bond is entitled to the benefits and is subject to the conditions of the Loan Agreement. The obligations of the Governmental Agency to make the payments required hereunder shall be absolute and unconditional without any defense or right of setoff, counterclaim or recoupment by reason of any default by the Authority under the Loan Agreement or under any other agreement between the Governmental Agency and the Authority or out of any indebtedness or liability at any time owing to the Governmental Agency by the Authority or for any other reason.

This Governmental Agency Bond is subject to optional prepayment under the terms and conditions, and in the amounts provided in Section 3.07 of the Loan Agreement.

The obligation of the Governmental Agency to make payments under the Loan Agreement and this Governmental Agency Bond is payable solely from the repayment source described in the Loan Agreement. This Governmental Agency Bond is a special and limited obligation of the Governmental Agency payable solely out of and secured by an irrevocable pledge of a lien (but not necessarily an exclusive lien) upon the Pledged Property (as defined in paragraph 4. of Exhibit A of the Loan Agreement). This Governmental Agency Bond does not constitute a debt or an indebtedness of the City of Steamboat Springs, Colorado (the “City”) within the meaning of any constitutional, charter or statutory provision or limitation. This Governmental Agency Bond is not payable in whole or in part from the proceeds of general

property taxes, and the full faith and credit of the City is not pledged for the payment of the principal of or interest on this Governmental Agency Bond.

This Governmental Agency Bond is issued pursuant to and in accordance with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling. Specifically, but not by way of limitation, this Governmental Agency Bond is issued pursuant to the Charter of the City and Title 11, Article 57, Part 2, C.R.S. Such recital shall conclusively impart full compliance with all provisions and limitations of such laws, and this Governmental Agency Bond issued containing such recital shall be incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Governmental Agency has caused this Governmental Agency Bond to be duly executed, sealed and delivered, as of this ____ day of June, 2011.

(SEAL)

**CITY OF STEAMBOAT SPRINGS,
COLORADO, ACTING BY AND THROUGH
THE CITY OF STEAMBOAT SPRINGS
UTILITY FUND ENTERPRISE**

By: _____
Mayor

ATTEST:

City Clerk

OPINION OF GENERAL COUNSEL

(Date of Closing)

Colorado Water Resources and
Power Development Authority

Wells Fargo Bank National Association,
as Trustee

Assured Guaranty Municipal Corp.
31 West 52nd Street
New York, NY 10019

Piper Jaffray & Co.

Ladies and Gentlemen:

I am an attorney admitted to practice in the State of Colorado and I have acted as counsel to the **CITY OF STEAMBOAT SPRINGS, COLORADO, ACTING BY AND THROUGH THE CITY OF STEAMBOAT SPRINGS UTILITY FUND ENTERPRISE** (the “Governmental Agency”), which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the “Authority”), and have acted as such in connection with the authorization, execution and delivery by the Governmental Agency of the Loan Agreement and its Governmental Agency Bond (as hereinafter defined).

In so acting I have examined the Constitution and laws of the State of Colorado and the Charter and ordinances of the Governmental Agency which I deem relevant. I have also examined originals, or copies certified or otherwise identified to my satisfaction, of the following:

1. The Authority’s Water Resources Revenue Bond Resolution (City of Steamboat Springs, Colorado Water and Wastewater Utility Fund Enterprise Project), adopted by the Authority on June 3, 2011 (the “Bond Resolution”);
2. the Loan Agreement, dated as of June 1, 2011 (the “Loan Agreement”) by and between the Authority and the Governmental Agency;
3. proceedings of the governing members of the Governmental Agency relating to the approval of the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Governmental Agency, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);

4. the Governmental Agency Bond, dated _____, 2011 (the “Governmental Agency Bond”) issued by the Governmental Agency to the Authority to evidence the Loan;
5. proceedings of the governing body of the Governmental Agency relating to the issuance of the Governmental Agency Bond and the execution, issuance and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the “Loan Documents”); and
6. all outstanding instruments relating to bonds, notes or other indebtedness of or relating to the Governmental Agency; and
7. the Official Statement of the Authority related to the Bonds of the Authority dated _____, 2011 (the “Official Statement”).

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion that:

1. The Governmental Agency is a “governmental agency” within the meaning of the Authority’s enabling legislation with the legal right to carry on the business of the System (as defined in the Loan Agreement) as currently being conducted and as proposed to be conducted.
2. The Governmental Agency has full legal right and authority to execute the Loan Documents and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project; subject, however, to the effect of, restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors’ rights generally (Creditor’s Rights Limitations) heretofore or hereafter enacted.
3. The proceedings of the Governmental Agency’s governing members approving the Loan Documents and authorizing their execution, issuance and delivery on behalf of the Governmental Agency, and authorizing the Governmental Agency to undertake and complete the Project have been or will be duly and lawfully adopted and authorized in accordance with applicable Colorado law, (hereinafter collectively called the “Authorizing Ordinance”), which Authorizing Ordinance was or will be duly approved and published in accordance with applicable Colorado law, at a meeting or meetings which were or will be duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present acting throughout.

4. To the best of my knowledge, after such investigation as I have deemed appropriate, the authorization, execution and delivery of the Loan Documents by the Governmental Agency, the observation and performance by the Governmental Agency of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Governmental Agency or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing Bond Ordinance, trust agreement, indenture, mortgage, deed or trust or other agreement to which the Governmental Agency is a party or by which it, the System (as defined in the Loan Agreement) or its property or assets is bound.
5. To the best of my knowledge, after such investigation as I have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Governmental Agency in connection with the authorization, execution, delivery and performance of the Loan Documents and, other than authorizations, licenses and permits relating to the siting, construction and acquisition of the Project and the disbursement of the proceeds of the Loan referred to in the Loan Documents which I reasonably expect the Governmental Agency to receive in the ordinary course of business, the undertaking and completion of the Project have been obtained or made.
6. To the best of my knowledge, after such investigation as I have deemed appropriate, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Governmental Agency or the validity, legality or enforceability of the Loan Documents or the undertaking or completion of the Project or which if adversely determined, could (a) materially adversely affect (i) the financial position of the Governmental Agency, (ii) the ability of the Governmental Agency to perform its obligations under the Loan Documents, (iii) the security for the Loan Documents, or (iv) the transactions contemplated by the Loan Documents, or (b) impair the ability of the Governmental Agency to maintain and operate its system.
7. While I am not passing upon, and do not assume responsibility for, the accuracy, completeness or fairness of the statements contained in Appendix C to the Official Statement, no facts have come to my attention in the course of activities described above which lead me to believe that Appendix C to the Official Statement (other than the financial and statistical data or forecasts, numbers, charts, estimates, projections,

assumptions or expressions of opinion contained therein, as to which I express no opinion, belief or view) as of its date contained, or as of the date hereof contains, any untrue statement of a material fact or as of its date omitted, or as of the date hereof omits, to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the numbered paragraphs herein.

I hereby authorize Fulbright & Jaworski L.L.P., Bond Counsel, and Carlson, Hammond & Paddock L.L.C., General Counsel to the Authority, to rely on this opinion as if I had addressed this opinion to them in addition to you.

Very truly yours,

OPINION OF GOVERNMENTAL AGENCY BOND COUNSEL

[Date of Closing]

Colorado Water Resources and
Power Development Authority

Wells Fargo Bank National Association,
as Trustee

Assured Guaranty Municipal Corp.
31 West 52nd Street
New York, NY 10019

Piper Jaffray & Co.

Ladies and Gentlemen:

We have acted as bond counsel to the **CITY OF STEAMBOAT SPRINGS, COLORADO, ACTING BY AND THROUGH ITS ELECTRIC, WATER AND WASTEWATER UTILITY ENTERPRISE** (the “Governmental Agency”), which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the “Authority”), and have acted as such in connection with the authorization, execution and delivery by the Governmental Agency of the Loan Agreement and its Governmental Agency Bond (as hereinafter defined).

In so acting we have examined the Constitution and the laws of the State of Colorado which we deemed relevant. We have also examined originals, or copies certified or otherwise identified to our satisfaction, of the following:

1. the Authority’s Water Resources Revenue Bond Resolution (City of Steamboat Springs, Colorado Water and Wastewater Utility Fund Enterprise Project), adopted by the Authority on June 3, 2011;
2. the Loan Agreement, dated as of June 1, 2011 (the “Loan Agreement”) by and between the Authority and the Governmental Agency;
3. proceedings of the governing body of the Governmental Agency relating to the approval of the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Governmental Agency;
4. the Governmental Agency Bond, dated _____, 2011 (the “Governmental Agency Bond”) issued by the Governmental Agency to the Authority to evidence the Loan; and

5. the Reimbursement Agreement, dated as of _____, 2011 (the “Reimbursement Agreement”) by and between Assured Guaranty Corp. and the Governmental Agency;

6. proceedings of the governing body of the Governmental Agency relating to the issuance of the Governmental Agency Bond and the execution, issuance and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the “Loan Documents”).

We have also examined and relied upon originals, or copies certified or otherwise authenticated to our satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in our judgment we have deemed necessary or appropriate to enable us to render the opinions expressed below. As to questions of fact material to our opinion, we have relied on the proceedings and certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion that:

1. The Governmental Agency is a “governmental agency” within the meaning of the Authority’s enabling legislation.

2. The Governmental Agency has full legal right and authority to execute the Loan Documents and the Reimbursement Agreement and to observe and perform its duties, covenants, obligations and agreements thereunder; subject, however, to the effect of, and restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors’ rights generally (“Creditor’s Rights Limitations”) heretofore or hereafter enacted.

3. The Governmental Agency has pledged the Pledged Property (as defined in paragraph (4) of Exhibit A to the Loan Agreement) for the punctual payment of the principal of and interest on the Loan (as defined in the Loan Agreement), and all other amounts due under the Loan Documents according to their respective terms and the Authority has a legal and valid lien (but not exclusive) on the Pledged Property. No filings or recordings are required under the Colorado Uniform Commercial Code in order to provide a first lien (but not exclusive) on such source of repayment and all actions have been taken as required under Colorado law to insure the priority, validity and enforceability of such lien.

4. The Loan Documents and the Reimbursement Agreement have been duly authorized, executed and delivered by the authorized officers of the Governmental Agency; and, assuming in the case of the Loan Agreement that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered the Loan Agreement and assuming in the case of the Reimbursement Agreement that Assured Guaranty Corp. has all the requested power and authority to authorize, execute and deliver and has duly authorized, executed and delivered the Reimbursement Agreement, the Loan Documents and the

Reimbursement Agreement constitute the legal, valid and binding obligations of the Governmental Agency enforceable in accordance with their respective terms; subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual obligations generally.

5. Assuming compliance with the covenants contained in the Loan Agreement and based upon representations of the Governmental Agency contained therein, the Governmental Agency is not, directly or indirectly, (a) using in excess of ten percent of the proceeds of the Authority Bonds (as defined in the Loan Agreement) loaned to the Governmental Agency or the Project in a manner that would constitute "private business use" within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended (the "Code"), and at least one-half of such private business use permitted by this clause (a) is neither unrelated to the governmental use of the proceeds of the Authority Bonds loaned to the Governmental Agency (within the meaning of Section 141(b)(3)(A)(ii)(I) or (III) of the Code) nor disproportionate related business use (within the meaning of Section 141(b)(3)(A)(ii)(II) or (III) of the Code) nor (b) using, directly or indirectly, any of the proceeds of the Authority Bonds loaned to the Governmental Agency to make or finance loans to persons other than governmental units (as such terms is used in Section 141(c) of the Code).

6. The execution and delivery of the Loan Documents and the Reimbursement Agreement are not subject to the limitations of Article X, Section 20 of the Colorado Constitution ("TABOR") since the Governmental Agency as of the date hereof constitutes an enterprise under TABOR (in delivering this opinion set forth in this sentence, we are relying upon representation of the Governmental Agency that it has received less than ten percent (10%) of its annual revenue in grants from all Colorado state and local governments combined). The performance of the obligations of the Governmental Agency under the Loan Documents is not subject to the limitations of TABOR as long as the Governmental Agency continues to qualify as an enterprise under TABOR. If the Governmental Agency is disqualified as an enterprise under TABOR, the Loan Documents will continue to constitute legal, valid and binding obligations of the Governmental Agency enforceable in accordance with their respective terms; subject, however, to (a) Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual rights generally and (b) except as set forth in the following sentence, the revenue and spending limitations of TABOR. If the Governmental Agency is disqualified as an enterprise under TABOR, (i) the Governmental Agency may continue to impose and increase fees, rates, and charges of the System without voter approval but subject, however, to the refund requirements of TABOR; (ii) all revenues of the Governmental Agency used to pay Loan Repayments will be excluded from the refund requirements of TABOR because debt service charges for the Loan Repayments are exceptions to, and not part of, the Governmental Agency's base under section 7(d) of TABOR; and (iii) if the Governmental Agency is required to reduce spending in order to comply with its fiscal year spending limit under section 7(b) of TABOR, the Governmental Agency will first be required to reduce spending for purposes for which it does not have an obligation under law or by contract prior to

reducing spending required to comply with the other covenants contained in the Loan Documents.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. We express no opinion as to any matter not set forth in the numbered paragraphs herein.

We hereby authorize Fulbright & Jaworski L.L.P., Bond Counsel, and Carlson, Hammond & Paddock L.L.C., General Counsel to the Authority, to rely on this opinion as if we had addressed this opinion to them in addition to you.

Very truly yours,

ADDITIONAL COVENANTS AND REQUIREMENTS

Additional Senior, Parity and Subordinate Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable from the Pledged Property, which are superior to the lien of this Loan Agreement on the Pledged Property. In addition, the Governmental Agency covenants that it will not issue any obligations (“Additional Parity Obligations”) with a lien on the Pledged Property and payable from the Pledged Property which is on a parity with the lien of the Governmental Agency Bond (“Parity Lien Obligations”) unless the Governmental Agency certifies to the Authority that Net Revenues (as defined in paragraph (4) of Exhibit A to this Loan Agreement and subject to the next sentence) for any 12 consecutive months out of the 18 months preceding the month in which such Additional Parity Obligations are to be issued is at least equal to the sum (a) of 110% of the maximum annual debt service of (i) the Governmental Agency Bond, (ii) all Parity Lien Obligations outstanding during such 12 month period, and (iii) such proposed Additional Parity Obligations to be issued, and (b) 100% of maximum annual debt service of all other indebtedness secured by and payable from the Pledged Property; provided, however, that no more than fifty percent (50%) of the water and electric rates, fees and charges for the products and services provided by the System, which are derived from connection fees shall be included in Revenues for the purposes of this Additional Bonds test. Net Revenues for the purpose of the preceding sentence may be adjusted to reflect any rate increases adopted prior to the issuance of such Additional Parity Obligations. Notwithstanding the foregoing, the Governmental Agency may issue Additional Parity Obligations to refund outstanding Parity Lien Obligations without compliance with the requirements stated above, provided that the debt service payments on such refunding obligations do not exceed the debt service payments on the refunded obligations on any interest during any calendar year. In addition, the Governmental Agency covenants that it will not issue any obligations payable from the Pledged Property which is subordinate to the lien of this Loan Agreement on the Pledged Property unless the Governmental Agency certifies to the Authority that for any 12 consecutive months out of the 18 months preceding the month in which such obligations are to be issued Net Revenues were at least 100% of the maximum annual debt service on all indebtedness outstanding during such period which is payable from Net Revenues.

Operations and Maintenance Reserve. The Governmental Agency shall maintain an operations and maintenance reserve in an amount equal to three months of operation and maintenance expenses excluding depreciation of the System as set forth in the annual budget for the current fiscal year. Said reserve may be in the form of unobligated fund balances or other unobligated cash or securities (i.e., capital reserves) or may be in a separate segregated fund and shall be maintained as a continuing reserve for payment of any lawful purpose relating to the System. If the operations and maintenance reserves fall below this requirement, the shortfall shall be made up in 24 substantially equal monthly installments beginning the second month after such shortfall or the date of delivery.

Rate Study. In the event that the Revenues collected during a fiscal year are not sufficient to meet the requirements set forth in the Rate Covenant contained in paragraph (5) of Exhibit A of this Loan Agreement, the Governmental Agency shall, within 90 days of the end of such fiscal year, cause an independent firm of accountants or consulting engineers (acceptable to

the 2011 Series B Bond Insurer) to prepare a rate study for the purpose of recommending a schedule of rates, fees and charges for the use of the System which in the opinion of the firm conducting the study will be sufficient to provide Revenues to be collected in the next succeeding fiscal year which will provide compliance with the Rate Covenant described in paragraph (5) of Exhibit A of this Loan Agreement. Such a study shall be delivered to the Authority, the 2011 Series B Bond Insurer and the Trustee. The Governmental Agency shall within six months of receipt of such study, adopt rates, fees and charges for the use of the System, based upon the recommendations contained in such study, which provide compliance with said rate covenant.

Notices and Other Information: The 2011 Series B Bond Insurer shall have the right to receive such additional information as it may reasonably request.

The Governmental Agency will permit the 2011 Series B Bond Insurer to discuss the affairs, finances and accounts of the Governmental Agency or any information the 2011 Series B Bond Insurer may reasonably request regarding the security for the 2011 Series B Bonds with appropriate officers of the Governmental Agency, and will use best efforts to enable the 2011 Series B Bond Insurer to have access to the facilities, books and records of the Governmental Agency on any business day upon reasonable prior notice.

No Purchase by the Governmental Agency. Without the prior written consent of the 2011 Series B Bond Insurer, no 2011 Series B Bonds shall be purchased by the Governmental Agency, or any of its respective affiliates, in lieu of redemption; provided, however, that an open market tender by the Authority of such 2011 Series B Bonds in order to satisfy sinking fund redemptions or to obtain 2011 Series B Bonds which are immediately cancelled shall be permitted.

Consent Rights. Any provision of this Loan Agreement expressly recognizing or granting rights in or to the 2011 Series B Bond Insurer may not be amended in any manner that affects the rights of the 2011 Series B Bond Insurer under this Loan Agreement without the prior written consent of the 2011 Series B Bond Insurer.

Consent of 2011 Series B Bond Insurer in the Event of Insolvency. Any reorganization or liquidation plan with respect to the Governmental Agency must be acceptable to the 2011 Series B Bond Insurer. In the event of any such reorganization or liquidation, the 2011 Series B Bond Insurer shall have the right to vote on behalf of all Bondholders who hold 2011 Series B Bonds guaranteed by the 2011 Series B Bond Insurer, absent a payment default by the 2011 Series B Bond Insurer under the policy.

Control Rights. The 2011 Series B Bond Insurer shall be deemed to be the holder of all of the 2011 Series B Bonds guaranteed by the 2011 Series B Bond Insurer for purposes of exercising all remedies and directing the Trustee to take actions or for any other purposes following an event of default under this Loan Agreement or the Bond Resolution.

Third Party Beneficiary. To the extent that this Loan Agreement confers upon or gives or grants to the 2011 Series B Bond Insurer any right, remedy or claim under or by reason of this Loan Agreement, the 2011 Series B Bond Insurer is explicitly recognized as being

a third party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Special Fund. The Governmental Agency shall create or maintain a special fund into which shall be deposited the Revenues. The Revenues shall be applied, on or before the last day of each month, first to the payment of the Operation and Maintenance Expense and then applied on a pro-rata basis to the payment of amounts due under the Loan Agreement and other amounts payable on a parity with the such payments. Any further application shall be as provided by ordinance or resolution of the Governmental Agency.

Reimbursement. The Governmental Agency shall pay or reimburse the 2011 Series B Bond Insurer any and all charges, fees, costs and expenses that the 2011 Series B Bond Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in the Resolution or any other Related Document; (ii) the pursuit of any remedies under the Resolution or any other Related Document or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, the Resolution or any other Related Document whether or not executed or completed, or (iv) any litigation or other dispute in connection with the Resolution or any other Related Document or the transactions contemplated thereby, other than costs resulting from the failure of the 2011 Series B Bond Insurer to honor its obligations under the 2011 Series B Insurance Policy. The 2011 Series B Bond Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Resolution or any other Related Document.

Amendments. The Loan Agreement shall not be amended or supplemented without the prior written consent of the 2011 Series B Bond Insurer.

Swap Agreements. Any interest rate exchange agreement (“Swap Agreement”) entered into by the Governmental Agency secured by and payable from the Pledged Property shall meet the following conditions: (i) the Swap Agreement must be entered into to manage interest costs related to, or a hedge against (a) assets then held, or (b) debt then outstanding, or (iii) debt reasonably expected to be issued within the next twelve (12) months, and (ii) the Swap Agreement shall not contain any leverage element or multiplier component greater than 1.0x unless there is a matching hedge arrangement which effectively off-sets the exposure from any such element or component. Unless otherwise consented to in writing by the 2011 Series B Bond Insurer, any uninsured net settlement, breakage or other termination amount then in effect shall be subordinate to debt service on the 2011 Series B Bonds and on any debt on parity with the 2011 Series B Bonds. The Governmental Agency shall not terminate a Swap Agreement unless it demonstrates to the satisfaction of the 2011 Series B Insurer prior to the payment of any such termination amount that such payment will not cause the Governmental Agency to be in default under the Related Documents, including, but not limited to, any such monetary obligations thereunder. All counterparties or guarantors to any Swap Agreement must have a rating of at least “A-“ and “A3” by S&P and Moody’s. If the counterparty or guarantor’s rating falls below “A-“ or “A3” by either S&P or Moody’s, the counterparty or guarantor shall execute a credit support annex to the Swap Agreement, which credit support annex shall be acceptable to the 2011 Series B Bond Insurer. If the counterparty or the guarantor’s long term unsecured

rating falls below “Baa1” or “BBB+” by either Moody’s or S&P, a replacement counterparty or guarantor, acceptable to the 2011 Series B Bond Insurer, shall be required.

Reporting Requirements. The Governmental Agency will furnish to the 2011 Series B Bond Insurer:

- a. annual audited financial statements within two hundred ten (210) days after the end of the Governmental Agency’s fiscal year (together with a certification by the chief financial officer of the Governmental Agency that it is not aware of any default or Event of Default under the Loan Agreement), and the Governmental Agency’s annual budget within thirty (30) days after the approval thereof together with such information, data or reports as the 2011 Series B Bond Insurer shall reasonably request from time to time;
- b. notice of any draw upon the Debt Service Reserve Fund within two Business Days after knowledge thereof other than (i) withdrawals of amounts in excess of the Debt Service Reserve Requirement and (ii) withdrawals in connection with a refunding of Bonds;
- c. notice of commencement of any proceeding by or against the Governmental Agency commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “Insolvency Proceeding”);
- c. notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on the Bonds;
- d. all reports, notices and correspondence to be delivered to Bondholders under the terms of the Related Documents;
- e. to the extent that the Governmental Agency has entered into a continuing disclosure agreement, covenant or undertaking with respect to the Bonds, all information furnished pursuant to such agreements shall also be provided to the 2011 Series B Bond Insurer, simultaneously with the furnishing of such information; and

Notices and Other Information: Any notice that is required to be given to holders of the 2011 Series B or the MSRB pursuant to Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission or to the Trustee pursuant to this Loan Agreement shall also be provided to the 2011 Series B Bond Insurer, simultaneously with the sending of such notices. In addition, to the extent that the Governmental Agency has entered into a continuing disclosure agreement with respect to the 2011 Series B Bonds, all information furnished pursuant to such agreement shall also be provided to the 2011 Series B Bond Insurer, simultaneously with the furnishing of such information. All notices required to be given to the 2011 Series B Bond Insurer shall be in writing and shall be sent by

registered or certified mail addressed to Assured Guaranty Municipal Corp., 31 West 52nd Street, New York, New York 10019, Attention: Managing Director – Surveillance, Re: Policy No. _____, Telephone: (212) 826-0100; Telecopier: (212) 339-3556. In each case in which notice or other communication refers to an Event of Default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate “URGENT MATERIAL ENCLOSED.”

In addition to Governmental Agency agrees to the following:

- a) No grace period for a covenant default shall exceed thirty (30) days or be extended for more than sixty (60) days, without prior written consent of the 2011 Series B Bond Insurer. No grace period shall be permitted for payment defaults.
- b) Any amendment, supplement, modification to, or waiver of the Loan Agreement shall be subject to the prior written consent of the 2011 Series B Bond Insurer.
- c) Notwithstanding satisfaction of the other conditions to the issuance of additional bonds set forth above, no such issuance may occur (1) if an Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) exists unless such default shall be cured upon such issuance and (2) unless the Debt Service Reserve Fund is fully funded at the Debt Service Reserve Requirement (including the proposed issue) upon the issuance of such additional bonds, in either case unless otherwise permitted by the 2011 Series B Bond Insurer.

AGENDA ITEM # 9

CITY COUNCIL COMMUNICATION FORM

FROM: Debra Hinsvark, Director of Financial Services (Ext 240)

THROUGH: Jon Roberts, City Manager (Ext. 228)

DATE: May 17, 2011

ITEM: **ORDINANCE:** Fourth Supplemental Budget Appropriation Ordinance of 2011.

NEXT STEP: Approve at second reading.

ORDINANCE
 INFORMATION

I. REQUEST OR ISSUE:

This communication form is to recognize revenues and expenses for several new projects within the City. They are as follows:

- Transfer funds from General Fund to Howelsen Ice Arena Fund for janitorial services. This service was formerly provided by a City employee, but is now contracted with an outside party.
- Book revenue and expense in the Airport Fund for the Olsen property land acquisition at the Steamboat Springs Airport.
- Book revenue and expense in the General Fund for a grant-funded solar hot water system for the Community Center.

II. RECOMMENDED ACTION:

Approval at second reading.

III. FISCAL IMPACTS:

Revenues:

Ice Arena Fund, via transfer from General Fund:	\$ 22,500.
Airport Fund, via CDOT Colo. Aeronautical Board grant:	396,053
General Fund, via Colorado Carbon Fund grant:	15,599
Capital Projects Fund via State Historical Fund grant:	45,386
C.P. Fund via Museum/Heritage Advisory Board grant:	10,000
C.P. Fund via Nat'l Trust for Historic Preservation grant, booked in 2010 and carried over:	<u>4,000</u>
Total Revenues:	\$493,538.

Expenditures:	
General Fund transfer to Ice Arena Fund	\$ 22,500
Airport Fund, for land acquisition	396,053
General Fund, for solar hot water system	15,599
Capital Projects Fund, for Mesa Schoolhouse windows	<u>59,386</u>
Total Expenditures:	\$ 493,538.

IV. BACKGROUND INFORMATION:

The Airport Fund grant requires a match; this match will be supported from budget transfers from the Aviation Fuel account in the Airport Fund.

Airport Fund required match:	\$44,066
------------------------------	----------

V. LEGAL ISSUES:

Supplemental Appropriations allowed per section 9.10 of the Home Rule Charter.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None noted.

VII. SUMMARY AND ALTERNATIVES:

Appropriations may be revised, deleted or approved.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

**FOURTH 2011 SUPPLEMENTAL BUDGET APPROPRIATION
ORDINANCE.**

WHEREAS, there are additional revenues and expenses which need to be recognized for the budget year 2011; and

WHEREAS, the City of Steamboat Springs wishes to recognize and appropriate the funds as follows:

Howelsen Ice Arena Fund – revenue in the form of a transfer from the General Fund, for the outsourcing of Ice Arena janitorial services to an outside contractor (formerly a City employee), in the amount of \$22,500;

Airport Fund – Government grants from CDOT’s Colorado Aeronautical Board, for land acquisition of the Olsen property at the Steamboat Springs Airport, in the amount of \$396,053;

General Fund – Government grants from the Colorado Carbon Fund, for a solar hot water system at the Community Center, in the amount of \$15,599;

Capital Projects Fund – Government grants from several sources, for the rehabilitation of the historic Mesa Schoolhouse’s windows, in the amount of \$59,386; and

WHEREAS, the City Council believes that such appropriations are important to the economic health and welfare of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. Supplemental Revenue. The following supplemental revenues are available in the stated amounts:

Ice Arena, Other Outside Services:	\$ 22,500
Airport Fund via CDOT grant:	396,053
General Fund via Carbon Fund grant:	15,599
(continued)	
Capital Projects Fund via State Historical Fund grant:	45,386

C.P. Fund via Museum/Heritage Advisory Board grant:	10,000
C.P. Fund via Nat'l Trust for Historic Preservation grant, booked in 2010 and carried over:	<u>4,000</u>

Total Revenues: \$493,538.

Section 2. Supplemental Appropriation. Pursuant to Section 9.10 (a) of the City of Steamboat Springs Home Rule Charter, the City Council hereby appropriates the following sums of money or that portion necessary for the purposes herein named:

General Fund transfer to Ice Arena Fund	\$ 22,500
Airport Fund, for land acquisition	396,053
General Fund, for solar hot water system	15,599
Capital Projects Fund, for Mesa Schoolhouse windows	<u>59,386</u>

Total Expenditures: \$ 493,538.

Section 3. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 4. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof, to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 5. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 6. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 10

CITY COUNCIL COMMUNICATION FORM

FROM: Anthony B. Lettunich, City Attorney (879-0100)

THROUGH: Jon Roberts, City Manager (Ext. 228)
Wendy DuBord, Interim City Manager (Ext. 219)
Julie Franklin, City Clerk (Ext. 248)

DATE: Tuesday, May 17, 2011

RE: Ordinance – Second Reading:
AN ORDINANCE AMENDING CHAPTER 6, SECTION 6-2 OF THE STEAMBOAT SPRINGS MUNICIPAL CODE; ESTABLISHING NEW BOUNDARIES FOR THE CITY COUNCIL DISTRICTS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NEXT STEP: Adopt the Ordinance at Second Reading

ORDINANCE

I. PURPOSE FOR AGENDA ITEM:

To request approval, at second reading, of an ordinance to approve the revised district boundaries for City Council districts.

II. FISCAL IMPACTS:

None.

III. ADDITIONAL INFORMATION:

The Steamboat Springs City Charter requires that the City be divided into three districts and that "each district be contiguous and shall include as nearly as possible the same number of qualified electors." While the City Charter states that the City Council shall examine the voter population districts "at least every five years to ensure that boundaries are changed, if such change is deemed necessary by Council," that task is difficult to achieve with

any certainty in other than immediately following decennial federal census years. Due to limited resources and uncertainty as to how to conduct an accurate local census, past City Councils have waited for the results of the federal census to re-establish City district boundaries.

Also, it should be noted that for at least the last 30 years, the City has used county precincts to define the City's three districts. That made it possible to ascertain accurate information as to how many votes were being cast in each of the three City districts for the various candidates and ballot questions at the local, state, and federal levels. This year, however, there is too great a discrepancy in the census numbers to use county precincts to establish City districts.

The boundary definition is by word description in the ordinance and follows compass directions and the center of street lines when possible together with the City's corporate boundary. There is also a map attached to this memorandum to help in illustrating the new boundaries. The word description is controlling but there will be a map on the City page and available through the City Clerk's office.

IV. NEXT STEP:

If you approve this ordinance at second reading this evening, May 17, 2011, City Staff will cause this ordinance to be published on Sunday, May 22, 2011, and it will, pursuant to the City Charter, become effective on Friday, May 27, 2011.

Staff's goal was to bring this to your attention and the public's attention well before election season to aid potential candidates in determining their correct district of residence.

ATTACHMENTS:

Attachment 1. Proposed District Map.

End of Communication Form

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6, SECTION 6-2 OF THE STEAMBOAT SPRINGS MUNICIPAL CODE; ESTABLISHING NEW BOUNDARIES FOR THE CITY COUNCIL DISTRICTS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Steamboat Springs Home Rule Charter, Section 2.5 divides the City into three districts, the boundaries of which shall be determined by the City Council; and

WHEREAS, each district shall be contiguous and shall include as nearly as possible the same number of qualified electors; and

WHEREAS, the City Council shall examine the voter population districts at least every five years to ensure that boundaries are changed, if such change is deemed necessary by the City Council; and

WHEREAS, the 2010 census revealed that changes in population distribution within the City require that the district boundaries be redrawn.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. The Steamboat Springs Municipal Code is hereby amended and revised as follows:

Sec. 6-2. Districts.

The following voting districts shall be used for all municipal elections in the City:

City District No. 1.

City District No. 1 encompasses the City of Steamboat Springs City Limits to the North and West. To the South this border extends NE along Blackmer Drive from the intersection of the City Limits and Blackmer Drive; continuing along Blackmer Drive to Mile Run; continuing along Mile Run to Howelsen Parkway; continuing along Howelsen Parkway to 5th Street; continuing NE along 5th Street to the NE shore of the Yampa River; continuing NW along the shore of the Yampa River to

7th Street; continuing NE along 7th Street to the Yampa Street/Lincoln Avenue alley; continuing SE along the Yampa Street/Lincoln Avenue alley to 6th Street; continuing NE along 6th Street to Lincoln Avenue; continuing SE along Lincoln Avenue to 5th Street; continuing NE along 5th Street to Maple Street; continuing along Maple Street to East Maple Street; continuing along East Maple Street to McKinley Street; continuing North along McKinley Street to the Southern boundary of Lot 21 Spring Creek Meadows; continuing along the Eastern boundary of Lot 21 Spring Creek Meadows to Lot 23 Spring Creek Meadows; continuing North along the Eastern boundary of the Lot 23 Spring Creek Meadows to the City Limits.

City District No. 2.

City District No. 2 encompasses the City of Steamboat Springs City Limits to the East and West and the Southern boundary of District No. 1 to the North. To the South this border extends SE from the intersection of the City Limits and Mt. Werner Road; continuing along Mt. Werner Road to Central Park Drive; continuing North along Central Park Drive to Steamboat Boulevard; continuing North along Steamboat Boulevard to Clubhouse Drive; continuing East along Clubhouse Drive to River Queen Lane; continuing South along River Queen Lane to its terminus; continuing SE along the access road forming the Southern Boundary of the Stormwatch at Steamboat Condominiums to Burgess Creek Road; continuing East along Burgess Creek Road to its intersection with the City Limits.

City District No. 3.

City District No. 3 encompasses the City of Steamboat Springs City Limits to the South, East and West and the Southern boundary of District No. 2 to the North.

Section 2. In addition to the description of the districts set forth in Section 1, above, the City Clerk shall retain a map of the districts (attached hereto as Exhibit A) and shall make that map available to the general public on the City web site and have copies available for distribution to the public. If there is any discrepancy between the description set forth in section 1, above, and the map referred to in this section 2, the description in section 1, above, shall control.

Section 3. This ordinance shall take effect five (5) days after publication following final passage.

Section 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance.

Section 5. That pursuant to Section 7-11 of the Charter of the City of Steamboat Springs, Colorado, the second publication of this ordinance may be by reference, utilizing the ordinance title.

Section 6. A public hearing on this ordinance shall be held on the 17th day of May, 2011, at any time after the meeting is called to order at approximately 5:00 P.M. in the City Council Chambers at Centennial Hall, at the corner of 10th St. and Oak St., Steamboat Springs, Colorado.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

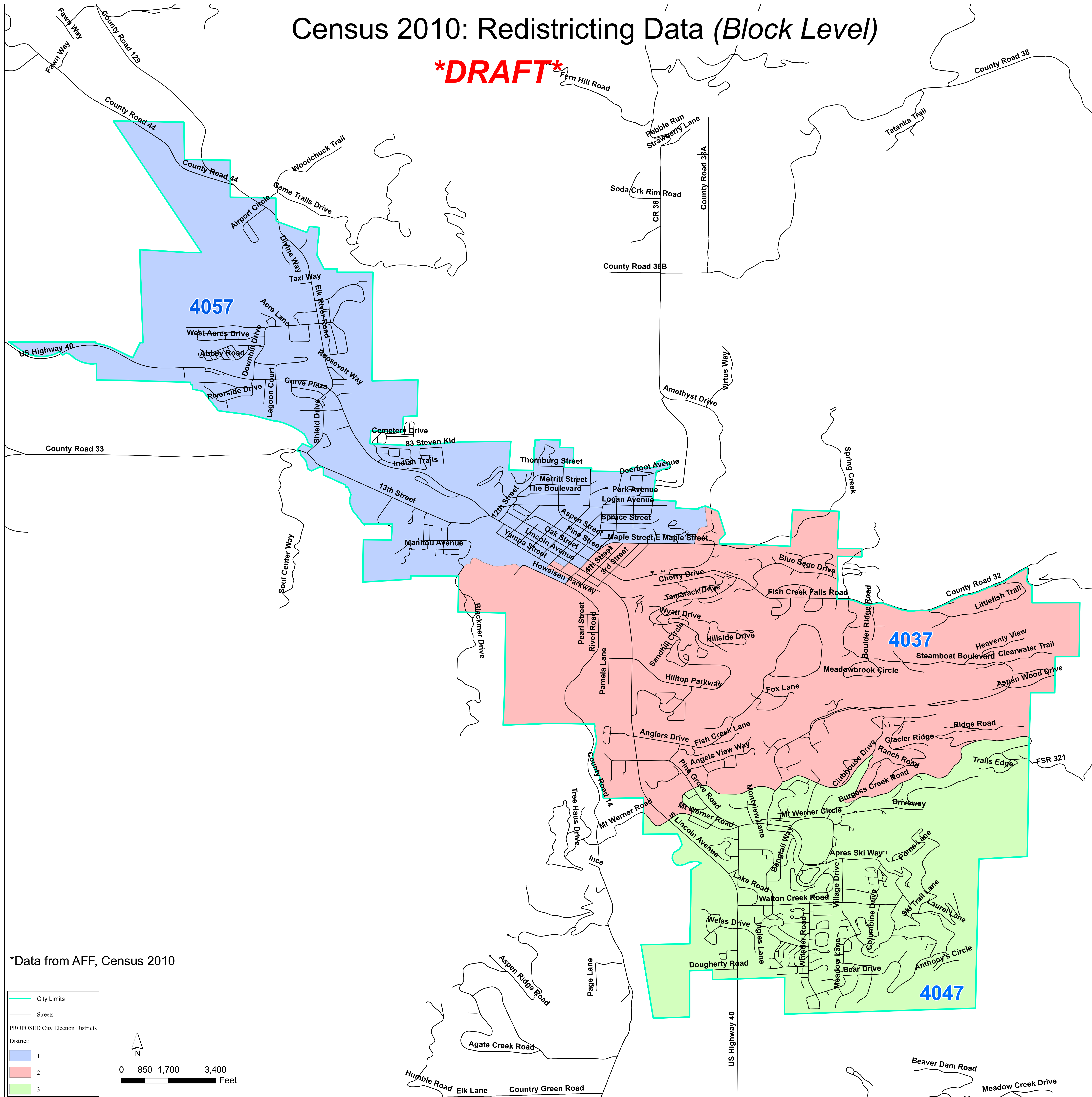
**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

Census 2010: Redistricting Data (Block Level)

DRAFT



*Data from AFF, Census 2010

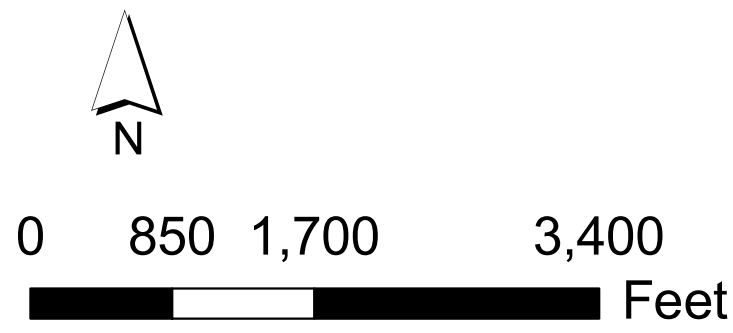
City Limits

Streets

PROPOSED City Election Districts

District:

- 1
- 2
- 3



AGENDA ITEM # 11

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, Staff Attorney (Ext. 223)

THROUGH: Jon Roberts, City Manager

DATE: May 17, 2011

ITEM: AN ORDINANCE AMENDING PROVISIONS RELATING TO MEDICAL MARIJUANA BUSINESSES SET FORTH IN CHAPTER 12, ARTICLE VI AND SECTION 26-92 OF THE REVISED MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND REPEALING ALL CONFLICTING ORDINANCES. (Foote)

NEXT STEP: Approve the ordinance on second reading

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

I. REQUEST OR ISSUE:

Approve an ordinance amending city regulations pertaining to medical marijuana licensing and land use.

II. BACKGROUND INFORMATION:

On January 5, 2010 the City Council adopted Ordinance No. 2296, which provides for licensing and regulation of medical marijuana dispensaries. Since then, the Colorado General Assembly has adopted legislation, HB 10-1284, that substantially revised the status of medical marijuana retailers. HB 10-1284 has two major parts. The first limits primary caregivers to no more than five patients each. This provision effectively eliminates the ability of caregivers to operate as medical marijuana dispensaries, i.e. large scale retail outlets.

The second part of HB 10-1284 authorizes the operation of three new types of licensed medical marijuana businesses, medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturers.

The passage of HB 10-1284 significantly changed the legal landscape relating to the regulation of medical marijuana businesses. Prior to HB 1284, medical marijuana businesses all tended to be of a single type operating pursuant to the primary caregiver provisions of Amendment 20. Now there are four types, some operating as primary caregivers pursuant to Amendment 20, the others operating pursuant to HB 10-1284 statutory authority. The proposed ordinance is intended to revise Ordinance No. 2296 to be consistent with HB 10-1284

The draft ordinance attached to this memo is a redlined revision of Ordinance No. 2296. Sections 1 and 2 of the ordinance address revisions to land use regulations pertaining to medical marijuana uses. The City Council originally reviewed this draft ordinance on October 19, 2010. Planning Commission has since reviewed the ordinance at hearings on February 10, 2011 and March 10, 2011. The City Council passed the ordinance, with two amendments, at first reading on April 5.

The first amendment was to eliminate certain advertising restrictions. The proposed ordinance has been revised to eliminate the language relating to the advertising restrictions.

The second amendment was to eliminate provisions that would have permitted commercial cultivation and infused products manufacturing to operate in residential districts as home occupations. The proposed ordinance has been revised to eliminate this language.

Section 3 of the ordinance addresses revisions to City licensing requirements for medical marijuana businesses. The revisions to the City's licensing requirements are intended to make the City's licensing regulations consistent with HB 10-1284. The revisions relate to application requirements, procedural details, and approval criteria. For the most part, these revisions use language taken directly from HB 10-1284. Staff recommends adopting the licensing revisions as drafted.

III. DISCUSSION ITEMS:

None.

IV. CONFLICTS OR PROBLEMS:

The ordinance should not be approved if the Council elects to proceed with the exercise of the local option to prohibit the operation of medical marijuana centers, optional premises cultivation, and medical marijuana infused products manufacturing. If the

Council elects to proceed with the local option, this ordinance should be tabled with directions to amend it to implement the local option and return it for second reading on June 7.

V. FISCAL IMPACTS:

Staff expects that the expenditure of staff and Council time and other resources in processing planning and licensing applications will be offset by application fees.

ATTACHMENTS

- | | |
|----------------------|--|
| Attachment 1. | January 18, 2011 Police Department Memorandum. |
| Attachment 2. | February 10, 2011 Planning Commission hearing minutes. |
| Attachment 3. | March 10, 2011 Planning Commission hearing minutes. |
| Attachment 4. | Public Comment. |



Steamboat Springs Police Services

MEMORANDUM

TO: City of Steamboat Springs Planning Commission

THROUGH: JD Hays, Chief of Police

FROM: Joel Rae, Captain

DATE: **January 18, 2011**

SUBJECT: **Law Enforcement Perspective on Medical Marijuana Centers**

The latest discussion at City Council regarding the update of the existing Medical Marijuana Ordinance gave direction to City Staff to provide Planning Commission with any information available for consideration in their recommended Medical Marijuana (MMJ) Ordinance. Outside of coming into compliance with House Bill 1284, the police department also has included additional information for your consideration.

Staff also received direction from City Council to provide any quantifiable data that was available concerning the effects that Medical Marijuana Dispensaries have had on the youth in our community.

- Attachment #1 is an excerpt of the Healthy Kids Colorado Survey from 2010. Please be reminded that Medical Marijuana Dispensaries had only been open for approximately 3 months when Steamboat Springs Middle School and High School students completed the survey and that only 45 Steamboat Springs High School Seniors participated.
- Attachment #2 is a spread sheet containing an informal survey that was given to the Steamboat Springs High School Leadership Class and the Steamboat Springs Middle School 8th Grade Health class by School Resource Officer Josh Carrell. Students were asked to write down their perspective on Medical Marijuana Dispensaries and the effects of MMJ dispensaries within the community.
- Attachment #3 contains data relating to Driving under the Influence of Drugs (DUID) (primarily marijuana) Arrests and possession of marijuana arrests from 2009 (pre-MMJ dispensary) and 2010 (post- MMJ dispensary).

From a law enforcement perspective, the police department has concerns with the negative messages MMJ centers send to the youth in our community. We also have concerns of ensuring MMJ centers within the City are operating within compliance of all State laws and within our existing/updated ordinance. From a numbers perspective, the more dispensaries that are authorized, licensed and operational, the more difficult this task will be. Although the Colorado Department of Revenue, Medical Marijuana Enforcement Division, will have a Medical Marijuana Enforcement Detail, it is unknown how much attention they will be able to provide to Steamboat Springs. If it is similar to the Division of Liquor Enforcement, the answer is very little, as the Department of Revenue has had only 2 Liquor Enforcement officers for our region of the state for the past several years. Law Enforcement has not received any assistance from the state level on the MMJ issue to date. At this point, and for the foreseeable future, ensuring compliance and enforcement is the responsibility of the Steamboat Springs Police Department.

Another Law Enforcement's concern is Medical Marijuana products ending up in the hands of non-medical marijuana card holders, especially or youth. Increased marijuana use, whether this is a direct effect of Medical Marijuana Dispensaries or not, have caused a spike in persons driving under the influence of marijuana within the City of Steamboat Springs. Steamboat Springs Police Officers have discovered medical marijuana containers bearing the name of licensed dispensaries in the hands of people who do not hold medical marijuana cards. This is a major public safety concern, as it is illegal to drive while under the influence of marijuana, medical or not. The National Highway Traffic Safety Administration has concluded that marijuana in recreational doses reduces a person's reaction time, leads to altered time and space perception, lack of concentration, impaired learning and memory, alterations in thought formation and expression, drowsiness, and sedation. All of these factors impact a person's ability to safely operate a motor vehicle. This concern is magnified when looking at the Healthy Kids Colorado Survey and the frequency of teenagers operating or riding in a vehicle driven by a person under the influence of marijuana. Given the fact that teenage drivers are already inexperienced, coupled with the known effects mentioned above, it will only be a matter of time before a crash primarily caused by a person who is driving under the influence of marijuana results in serious injury or the loss of life in our community.

Law Enforcement, community health advocates and our State Legislature must play catch up in the enforcement of illegal marijuana use, educating youth on the dangers and effects of marijuana and the adoption of state law creating a "Driving per se" level for THC, respectively.

Police Department Staff recommends that The City of Steamboat Springs not be in a hurry to open the gates for more dispensaries until more resources are in place to deal with all of the issues surrounding medical marijuana centers.

Steamboat Springs Police Department Statistics

2009 DUID Arrests	
Adult vs. Juvenile	Total
Adult	11
Grand Total	11

2010 DUID Arrests		
Adult vs. Juvenile	Total	
Adult	16	89%
Juv	2	11%
Grand Total	18	100%

2009 Marijuana Arrests		
Adult vs. Juvenile	Total	
Adult	70	82%
Juv	15	18%
Grand Total	85	100%

2010 Marijuana Arrests		
Adult vs. Juvenile	Total	
Adult	84	86%
Juv	14	14%
Grand Total	98	100%

2009 DUID Arrests		
Age at Time of Arrest	Total	
Age 18 - 20	2	18%
Age 21 - 29	3	27%
Age 30 - 39	3	27%
Age 40 - 49	2	18%
Age 60 - 69	1	9%
Grand Total	11	100%

2010 DUID Arrests		
Age at Time of Arrest	Total	
Age 15 - 17	2	11%
Age 18 - 20	6	33%
Age 21 - 29	5	28%
Age 30 - 39	1	6%
Age 40 - 49	1	6%
Age 50 - 59	3	17%
Grand Total	18	100%

2009 Marijuana Arrests		
Age at Time of Arrest	Total	
Age 15 - 17	15	18%
Age 18 - 20	20	24%
Age 21 - 29	29	34%
Age 30 - 39	13	15%
Age 40 - 49	7	8%
Age 50 - 59	1	1%
Grand Total	85	100%

2010 Marijuana Arrests		
Age at Time of Arrest	Total	
Age 15 - 17	14	14%
Age 18 - 20	24	24%
Age 21 - 29	33	34%
Age 30 - 39	23	23%
Age 40 - 49	3	3%
Age 60 - 69	1	1%
Grand Total	98	100%

* SSPD does not close cases to auditing, updating or editing. Therefore, statistics are subject to minor changes over time as cases are reviewed and/or updated. The number of arrest is arrived at by counting unique arrestee numbers in arrest modules of RMS program.

		2008 SS	2010 SS	2010 State	# Change from 2008-2010 Increase/Decrease	# Change from State to 2010 Higher/Lower	
Alcohol	Have you ever drank alcohol in your lifetime?	7th	0%	11%	38%	11% Increase	-27% Lower
		8th	50%	12%	53%	-38% Decrease	-41% Lower
		9th	59%	53%	65%	-6% Decrease	-12% Lower
		10th	74%	66%	72%	-8% Decrease	-6% Lower
		11th	78%	78%	78%	0% Decrease	0% Same
		12th	84%	83%	82%	-1% Decrease	1% Higher
		# Change from 2008-2010					
Alcohol	Past 30 days, have you drank?	7th	0%	6%	19%	6% Increase	-13% Lower
		8th	28%	6%	31%	-22% Decrease	-25% Lower
		9th	28%	31%	40%	3% Increase	-9% Lower
		10th	40%	37%	45%	-3% Decrease	-8% Lower
		11th	58%	41%	48%	-17% Decrease	-7% Lower
		12th	69%	57%	54%	-12% Decrease	3% Higher
		# Change from 2008-2010					
Alcohol	Past 30 Days, had 5+ drinks within a couple of hours?	7th	0%	0%	13%	0% Decrease	-13% Lower
		8th	8%	0%	19%	-8% Decrease	-19% Lower
		9th	22%	22%	26%	0% Decrease	-4% Lower
		10th	28%	20%	35%	-8% Decrease	-15% Lower
		11th	35%	25%	37%	-10% Decrease	-12% Lower
		12th	48%	28%	39%	-20% Decrease	-11% Lower
		# Change from 2008-2010					
Alcohol	If wanted some, how easy would it be to get some? Easy and Very Easy Responses	7th	0%	34%	34%	34% Increase	0% Same
		8th	0%	57%	50%	57% Increase	7% Higher
		9th	61%	68%	59%	7% Increase	9% Higher
		10th	72%	63%	67%	-9% Decrease	-4% Lower
		11th	66%	67%	72%	1% Increase	-5% Lower
		12th	77%	73%	76%	-4% Decrease	-3% Lower
		# Change from 2008-2010					
Tobacco	In the past 30 days, on how many days did you smoke a cigarette? *Responses show at least one use.	7th	0%	0%	9%	No change	-9% Lower
		8th	6%	0%	15%	-6% Decrease	-15% Lower
		9th	0%	5%	19%	5% Increase	-14% Lower
		10th	9%	0%	22%	-9% Decrease	-22% Lower
		11th	7%	17%	24%	10% Increase	-7% Lower
		12th	14%	0%	27%	-14% Decrease	-27% Lower
		# Change from 2008-2010					
Tobacco	How old were you when you smoked a whole cigarette? *Responses show tried between Ages 8-17	7th	0%	0%	17%	Increase	-17% Lower
		8th	14%	0%	26%	-14% Decrease	-26% Lower
		9th	13%	6%	34%	-7% Decrease	-28% Lower
		10th	21%	20%	39%	-1% Decrease	-19% Lower
		11th	30%	15%	44%	-15% Decrease	-29% Lower
		12th	38%	12%	47%	-26% Decrease	-35% Lower
		# Change from 2008-2010					
Tobacco	During the past 30 days, on the days you smoked, how many cigarettes did you smoke per day? *Responses show one cigarette or more per day.	7th	0%	0%	5%	0% Decrease	-5% Lower
		8th	8%	0%	11%	-8% Decrease	-11% Lower
		9th	4%	0%	14%	-4% Decrease	-14% Lower
		10th	0%	0%	16%	0% Decrease	-16% Lower
		11th	10%	0%	18%	-10% Decrease	-18% Lower
		12th	17%	0%	21%	-17% Decrease	-21% Lower
		# Change from 2008-2010					
Tobacco	During the past 30 days, on how many days did you use chewing tobacco, snuff, or dip, such as Redman, Levi Garrett, Beechnut, Skoal, Skoal Bandits, or Copenhagen?	7th	0%	0%	6%	0% Decrease	-6% Lower
		8th	5%	0%	7%	-5% Decrease	-7% Lower
		9th	0%	4%	13%	4% Increase	-9% Lower
		10th	9%	8%	14%	-1% Decrease	-6% Lower
		11th	14%	17%	14%	3% Increase	3% Higher
		12th	17%	0%	18%	-17% Decrease	-18% Lower
		# Change from 2008-2010					
Tobacco	If you wanted to get some cigarettes, how easy would it be for you to get some? *Responses show Easy/Very Easy	7th	0%	20%	32%	Increase	-12% Lower
		# Change from 2008-2010					

8th	51%	34%	47%	-17% Decrease	-13% Lower
9th	54%	0%	60%	-54% Decrease	-60% Lower
10th	72%	66%	67%	-6% Decrease	-1% Lower
11th	75%	74%	76%	-1% Decrease	-2% Lower
12th	87%	90%	84%	3% Increase	6% Higher

Marijuana Used marijuana in lifetime?		2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th		0%	4%	15%	4% Increase	-11% Lower
8th		10%	5%	26%	-5% Decrease	-21% Lower
9th		19%	37%	37%	18% Increase	0% Same
10th		50%	43%	44%	-7% Decrease	-1% Lower
11th		55%	56%	49%	1% Increase	7% Higher
12th		79%	14%	54%	-65% Decrease	-40% Lower

Marijuana Past 30 Days, used marijuana? * 2010-- trace of individuals that smoked mj in past 30 days		2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th		0%	0%	4%	0% Decrease	-4% Lower
8th		10%	0%	5%	-10% Decrease	-5% Lower
9th		12%	19%	23%	7% Increase	-4% Lower
10th		25%	26%	25%	1% Increase	1% Higher
11th		25%	33%	29%	8% Increase	4% Higher
12th		49%	29%	29%	-20% Decrease	0% Same

* All responses, only one time.

Marijuana If wanted some marijuana, how easy would it be to get some? Easy and Very Easy Responses		2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th		0%	15%	21%	15% Increase	-6% Lower
8th		0%	23%	35%	23% Increase	-12% Lower
9th		55%	66%	50%	11% Increase	16% Higher
10th		70%	61%	58%	-9% Decrease	3% Higher
11th		70%	72%	65%	2% Increase	7% Higher
12th		76%	73%	67%	-3% Decrease	6% Higher

* 11th grade, 11% 1 time, 16% 6 times or more

Painkillers Used prescription drug without a doctor's prescription in lifetime?		2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th		0%	5%	14%	5% Increase	-9% Lower
8th		12%	4%	19%	-8% Decrease	-15% Lower
9th		12%	23%	22%	11% Increase	1% Higher
10th		28%	14%	25%	-14% Decrease	-11% Lower
11th		30%	13%	26%	-17% Decrease	-13% Lower
12th		50%	0%	31%	-50% Decrease	-31% Lower

Alcohol Past 30 days, ridden in a car driven by someone who had been drinking alcohol?		2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th		0%	6%	19%	6% Increase	-13% Lower
8th		17%	21%	25%	4% Increase	-4% Lower
9th		18%	25%	28%	7% Increase	-3% Lower
10th		33%	15%	30%	-18% Decrease	-15% Lower
11th		26%	28%	31%	2% Increase	-3% Lower
12th		45%	11%	29%	-34% Decrease	-18% Lower

Marijuana Past 30 Days, been in car of someone who has used marijuana?		2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th		0%	0%	16%	0% Decrease	-16% Lower
8th		9%	4%	20%	-5% Decrease	-16% Lower
9th		26%	37%	27%	11% Increase	10% Higher
10th		40%	37%	29%	-3% Decrease	8% Higher
11th		31%	48%	33%	17% Increase	15% Higher
12th		55%	40%	33%	-15% Decrease	7% Higher

Alcohol Past 30 Days, drove a car of under the influence of alcohol?		2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th		0%	0%	0%	0% Decrease	0% Same
8th		0%	0%	0%	0% Decrease	0% Same
9th		3%	5%	10%	2% Increase	-5% Lower
10th		14%	8%	12%	-6% Decrease	-4% Lower
11th		13%	14%	15%	1% Increase	-1% Lower
12th		34%	11%	18%	-23% Decrease	-7% Lower

Marijuana Past 30 Days, drove a car of under the influence of marijuana?		2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th		0%	0%	0%	0% No change	0% Same
8th		0%	0%	0%	0% No change	0% Same
9th		4%	4%	13%	0% No change	-9% Lower
10th		14%	11%	14%	-3% Decrease	-3% Lower
11th		16%	27%	19%	11% Increase	8% Higher
12th		35%	14%	20%	-21% Decrease	-6% Lower

What do you know about alcohol?		
Topic	Student	Comments
Alcohol	1	It's bad for you if you have too much, you can drink alcohol when you are 21, it's gross I think, messes with your brain.
	2	It is bad for you it's sorta kinda a drug, it kills brain cells, can't drink till your 21, lots of underage drinking goes on in this town, you get drunk if you have too much.
	3	It can be bad if you drink too much, you could get drunk or crash in a car. Alcohol is okay if you don't drink a lot.
	4	It messes with your brain. Illegal under age 21. Bad for your body. Makes you feel good at first, then after you get a hangover.
	5	Messes with your brain, poison to body, illegal until 21
	6	Drunk, costs money, addictive, hangover, #1 in Steamboat, depressant
	7	Bad for you, messes with your brain, makes you feel good, but then your hungover.
	8	Well if you drink too much it causes brain damage, you can get drunk.
	9	Is really addictive, depressant, "deletose blood", Alcoholism is genetic, relaxer, kills liver, illegal yull 21, expensive, brain.
	10	It can destroy your liver, It is bad for you brain, your thinking skills deteriorate. Bad for you. Not illegal if your over 21.
	11	Alcohol is bad for children. It can destroy your liver and give you alcohol poisoning. Also it can make you pass out. It is illegal for children, It can mess up your judgement. 21 is legal age.
	12	It's bad for the brain and the liver. Your thinking skills deteriorates. Bad for you. Illegal for being under 21. An effect on the body.
	13	It is illegal to buy under 21. It is illegal to drink under 21. It is bad for you. Lose brain cells, get a hangover. Lots of types.
	14	It causes brain damage, it's addictive, its bad to drink when you are a kid, it gives you hangovers. It's not illegal, you must be 21 to drink it. There's many different types of it. You can get drunk.
	15	It is bad for you, if you drink to much you get a hangover, it's addictive
	16	It gets you drunk when you drink too much, it affects your brain, makes you make bad decisions, there are many types of alcohol.
	17	That it is a substance that should not be used because of its negative effects on people and their lives. It reduced you common sense and makes your judgement useless.
	18	Different types, not agoof for liver, hangover, drunk.

	19	21 is the legal age, bad for your liver, illegal to drive after drinking, beer has a low content, hangover, safety issue, metabolic poisoning, use in cooking, fermenting, abused often, addictive, depressant, drug.
	20	Different kinds, parent drink it, can be used for cooking, drunk, safety
	21	Bad for your liver, bad to drive drunk, kills brain cells when young, have to be 21 to drink
	22	It is bad for the brain, it causes bad choices, it makes your thinking poor, it ia a depressant.
	23	Bad for you, you can be addicted, you can get a DUI for drinking and driving, you can go to jail for being under the influence, you can get a hangover, safety issue, alcohol poion, have to be 21 to drink, abused by teens, slows you down, a drug
	24	Alcohol can get you drunk and lose brain cells, If you go to sleep drunk you get a hangover, 21 is the legal age, many people in Steamboat drink, slurring words
	25	I think that I know that alcohol is a poison to your mind and bosity, I think it makes you do stupid or irresponsible things, and dulls your sense to the point where your own safety and others is put in danger. It also causes liver failure.
	26	Alcohol is bad for the human body. Alcohol is very addicting, is bad for the brain. Once you try some you get addicted and get drunk. Drinking while driving is really bad and illegal. 21 is the legal age, slow body down.
	27	It is abused.
What do you know about Marijuana?		
Topic	Student	Comments
Marijuana	1	It's bad for you, it is green, gross!
	2	It's illegal, it can be medical, it is a drug, it's addictive, it has nictotine in it (I think), it's really bad for you, it's green, it's yucky, it's gross.
	3	It is very bad, it is addictive and can kill you. Some people use it for a medical reason. If you don't have a good reason you shouldn't take it.
	4	Illegal, messes with your brain, bad for your body, lung cance, may help you feel better
	5	Easy to become addicted, plant, green, all different kinds, you smoke it, has many street names, weed, pot, reefer, matry-jane, hash. There is medical marijuana that is legal from doctors.
	6	Hash, illegal, meese up brain, effects athletes, #2 in Steamboat, gateway, plant, depressant, halucinagen, hurts development. Tobacco, super addictive, 10/11 additives, cocaine makes time go faster.
	7	Also bad for you, you can get lung cance, it's a plant.

	8	Marijuana you get high and it causes lung cancer.
	9	Is really addictive, lung cancer, brain cell get killed, pain killer, depressant, hallucinations, plant, pot, weed, gateway drug.
	10	It destroys your brain. You can't learn, you forget stuff. It's addictive. It can cause cancer. Causes you to make bad decisions. Lowers desire to be active. Bad for you. It's illegal, unless for medical problems.
	11	It has many different forms. It is illegal. There is medical purposes. It is a plant.
	12	It's addicting, damages the brain. Fills lungs with smoke can give you cancer. Lowers desire to do activities. It's bad for you, illegal unless for medical needs.
	13	It is illegal, terrible for you. Lose brain cells, get high. It's not addictive. Many kids try it.
	14	It's illegal, people sell it, it makes you high, it's addictive, there's medical marijuana, you can get arrested, people can die cause of it.
	15	You can smoke it, it's bad for your lungs.
	16	It's a plant, it affects your brain, makes you have bad decisions, it is illegal to have without a medical license.
	17	That is a highly addictive drug that can control your life. It can make you start doing other drugs. Also it can make you start doing other drugs. Also it can make you do anything for the drug.
	18	It can help people who have disabilities.
	19	2nd most illegal substance in Steamboat, messes with your brain, smuggled over Mexican border, addicting, dilated pupil, medical uses, THC, easy to get, depressant or stimulant or hallucinogenic.
	20	I've seen it, it smells horrible, can be used medically, pupils dilate, also called weed.
	21	Illegal, kills brain cells, bad for your lungs, it's a plant, also known as pot, weed, reefer.
	22	Makes the eyes puffy and red, makes pupils dilate.
	23	Poison, illegal to do or sell, medical marijuana can be prescribed to you, dilates your eyes, THC, easy to get, bad for you - puts holes in your brain, depressant, putting your safety and other in danger, many nicknames, comes from a plant, a drug.
	24	Weed is the most common smoking drug that you can get high. If you smoke it you get high, people who do it tell me it's not addictive, there is no legal age for weed it is against the law, many people in Steamboat smoke marijuana, there is medical marijuana, your eyes get puffy and bloodshot, if you are under the influence your brain works four times harder.

	25	I think that I know that marijuana is definitely a bad drug and a bad idea I think it detached you from everything else and makes you want only it, care about only it. I also think it destroys brain cells (like alcohol), it might also give you a relaxed feeling from stress, but when its done you feel depressed.
	26	Marijuana is an addicting drug, marijuana is bad for your brain, body and health.
	27	Plant, 3-9 leaves, smoked.
Have Medical Marijuana Dispensaries Changed your perception about marijuana		
Topic	Student	Comments
Medical Marijuana	1	I think we should not have it. Yes because I think it is still wrong to have it. No, I don't think its bad and I have not thought about it.
	2	I don't like it even if it is medical. No, because it is still a drug and it can still hurt people. No, because it is easier to get for teens and it can still hurt people.
	3	I think it is good and bad because if people need it they can get it. It could also fall in the wrong hands. No, it hasn't because people still can get it even if they aren't sick. Yes.
	4	I think medical marijuana is okay because it's a pain relief and can make you feel better. Not really. I haven't really though about it.
	5	Did not give answer.
	6	It is a pain reliver and some people are getting it for invalid reasons. Some people no one really needs it because they have invented things that will better off the same. No I believe they are giving it out too freely, but I'm not too concerned.
	7	I don't know, I don't care, Not sure.
	8	I don't care about it.
	9	A way for cancer patients to get their appetite back, pain control for agonizing pain. Yes, it's a type of medicine for some people, but not me. I don't know.
	10	It's terrible and some people just use it when they don't need to. I think it made it worde because it made it easier for people to get.
	11	It may fix some ailments, but people are just abusing the system and getting weed. If it continues like this they should make weed legal. No, because nobody really needs it, they just think they do.
	12	I don't think it was a very good idea. It allows kids to get it with out really having an excuse. Yes, because it makes it seem okay, when its really not.
	13	It is horrible for everyone, everywhere. It shouldn't be so easy to get it. I haven't thought about that, but I don't think so. They're both bad and can be addictive.

	14	I think it's good for some people who need it. But I think some people mis-use it. I still think it is bad.
	15	I don't know anything about it. No, because it hasn't changed how bad it is for you. Alcohol is bad for you in large amounts, it's addicting.
	16	It is bad for some and good for others. I think it shouldn't be legal to have on the street, only legal by a prescription. Yes, because I used to think it was only for druggies, but it actually helps people.
	17	It is dumb. It should not be legal in Colorado and should not be easy to get. No, because I think that it is bad no matter the situation.
	18	I think it is okay for some people but I also strongly disagree with using medical marijuana. It is still horrible but only okay for very few people.
	19	I think its okay if somebody actually needs it, but in other cases that it should not be permitted. No, it's still a drug that in most cases should not be used.
	20	It is good for someone who needs it but for someone who gets the prescription just to have it is bad. It is really easy to get. Yes, and mostly no - it is still bad.
	21	It helps some people, but it shouldn't be so easy to get. You should have to at least see a doctor in person to get a prescription. I haven't really thought about it.
	22	I think that it is dumb because it is so easy for people to get it. No, I haven't thought about it.
	23	I think doctors should be able to prescribe it to anyone. No, because it is still bad
	24	No idea. No, because it still gets you high and its still addictive.
	25	I think medical marijuana has its ups and downs if used appropriately and if needed I think its okay, but if used for wrong reasons or not needed or abused I think its bad. No, I still think of it as a drug, something not to be abused.
	26	Marijuana is an addicting drug and it is very bad for your health, mind, body. I think marijuana is horrible drug to put in town because it is bad.
	27	It is abused. It only should be used when helping someone with health issues. It should be contained better. Yes, it shows me how much people use it badly.
	28	Medical marijuana is good for some but not others. Marijuana shouldn't be given to everyone, just the people with real problems. They make it look good, but still they shouldn't give it to just anyone.

Medical Marijuana *TABLED 1/27/11*

Discussion on this agenda item started at approximately 5:22 p.m.

Disclosure

Commissioner Robbins –
I have clients that can benefit from however this turns out.

STAFF PRESENTATION

Dan Foote –
This ordinance is motivated by HB 10-1284 which was adopted by the State Legislature last year. It had the effect of changing how the medical marijuana is operated in this state. Our existing ordinance was addressed in the fact that they were primary care givers and their customers were patients. This ordinance broke the industry up into 4 different types of businesses. There are a couple of production types and then retail and primary care givers who are limited to only 5 patients and are not going to be the basis of a retail operation. In the context of addressing the land use issues with these new business operations the City Council has asked that we look into providing some greater degree of protection to residential uses from medical marijuana uses.

COMMISSIONER QUESTIONS

Commissioner Robbins –
Where you talk about the cultivation of infused product manufacturing that's restricted to the industrial zone districts that can only occur in the industrial zone district? What would happen if a medical marijuana center that already exists has an infused manufacturing at their facility now? Would they not be able to do that if they're not in the industrial zone district?

Dan Foote –
That's correct. They would have to move their infused product manufacturing to an industrial zone district.

Commissioner Levy –
What was the nature of the complaint from Foxcreek and the adjacent dispensary?

Dan Foote –
At Foxcreek we had a dispensary that was a full retail operation and the concern was odor and foot traffic. There are people with children that don't feel that it's appropriate to have near their children.

Commissioner Levy –
Was the odor from the establishment itself or other activities associated with it?

Dan Foote –
We haven't had complaints in that much detail. We've had complaints regarding odor, but nothing to do with the use of marijuana. It had to do with the growing of marijuana or stock on hand.

Commissioner Levy –

On pg 3-4 at the top ‘medical marijuana centers shall not be located within 500’...’ is that standard language? Is that the same language we have for alcohol or other things that are detrimental to schools and campuses?

Dan Foote –

That’s the existing language that we use for a medical marijuana facility criteria. I took this out of the liquor licensing statute.

Commissioner Robbins –

I think that it’s in conflict with HB 1284, because that requires it to be 1000’.

Dan Foote –

We’re allowed to modify the distance restrictions.

Commissioner Lacy –

Has there been any thought about modifying that language to include other places such as childcare centers or home daycares or anything like that?

Dan Foote –

It was decided that might be impractical since there’s daycare centers all over the place and we don’t know where they all are.

Commissioner Hanlen –

Instead of putting in this language about not allowing uses adjacent to the following zone districts, would it make more sense to change it from a use with criteria to a conditional use? Are we creating such a contentious ordinance by having so many restrictions on where it can be when there may be instances where it would make sense to have it in a certain location as opposed to a blanket restriction on all of these locations?

Dan Foote –

Everywhere where we have uses with criteria to change those to conditional uses?

Commissioner Hanlen –

It would go through the public process. Usually I’m not for taking the process public if it doesn’t need to be. If that seems to be the whole problem is the public’s concern about adjacency. It’s not like we’re talking about 10 applications a year since there’s only 3 businesses allowed in town. It seems like a fairly restricted expansion.

Dan Foote –

That’s an interesting point. City Council would get a chance to evaluate these adjacencies.

Commissioner Hanlen –

Can we do that and simplify the ordinance and reduce its size just to keep it from getting more complicated and larger than it needs to be?

Commissioner Lacy –

How do other Commissioners feel about that as far as conditional use versus use with criteria?

Commissioner Robbins –

I think it's a solid idea.

Commissioner Slavik –

I like the idea that it would be reviewed publicly in terms of that location and conditional use. We talked about what if it was going into an industrial park that had morphed into something that's less industrial? It would allow us to say under these conditions we do or do not allow it to be. It seems like it gives us the right amount of review over the location.

Commissioner Hanlen –

Maybe as an interim step would it be possible to keep it as a use with criteria and apply the potential for a call-up revision as opposed to it being merely administrative? If nobody has an objection then it can sail on through and if someone has an objection then City Council or Planning Commission would have the ability to have a call-up revision. Would that be an in-between step?

Commissioner Slavik –

Does that still allow the public to know that it's going to happen?

Commissioner Hanlen –

Use with criteria gets publicly noticed, doesn't it?

Tyler Gibbs –

I think so.

Commissioner Hanlen –

Any adjacent property owner is going to be noticed anyways. They would have the opportunity then. If nobody calls it up or complains about it, would it have to go through the whole public process? We keep it simple if nobody is objecting, but if somebody does object then it goes through the public form.

Commissioner Levy –

I'm more likely to support that. I think with the conditional use then it becomes more of who shows up at that meeting to complain? People want to have a more clear answer to whether a business can be located there.

Commissioner Brookshire –

It seems like to me that if you list them in the ordinance then you're identifying that it's not allowed in those zone districts. I'm not interested in listing them all, because then it's affirmative then you're saying that it's not allowed here.

Commissioner Beauregard –
Because it says the adjacent portion I agree with Commissioner Hanlen.

Commissioner Levy –
It takes the same review as whether there's a school within 500'. Staff is going to have to take an actual measurement and say how far is the nearest school. The applicant may not be aware of a seminary that's a school in the area. Staff is going to have to do that work anyways.

Commissioner Hanlen –
Is there a definition for adjacency?

Dan Foote –
There is a definition for adjacency. If a property is next to each other or a right of way between them then it's adjacent. With respect to medical marijuana cultivation we're not going to be able to have a conditional use process. The location of medical marijuana cultivation facilities is required to be kept confidential. In January the State did introduce a bill that would change the confidentiality, but it hasn't been voted on yet.

Commissioner Levy –
I would think the same things for the infused product facilities. Is that also protected?

Dan Foote –
Those are not protected.

Commissioner Levy –
It's all the same issues where they're worried about theft and things like that.

Commissioner Lacy –
What you're saying is you wouldn't say that staff would necessarily be supportive of.

Dan Foote –
I don't think that we can do that with cultivation. I believe that process exists right now where you can do a call-up for a public hearing with the use with criteria approvals. When the director decides to approve something he sends a notice to the City Council. I wonder how affective that's going to be.

Commissioner Hanlen –
How would we find out if it was a cultivation facility?

Dan Foote –
You won't.

Commissioner Hanlen –
Should we be concerning ourselves with that?

Dan Foote –

Staff gets to know where the location is. If we went with the existing language then staff would know where the proposed location is and be able to check to see if there are any residential zone districts.

Commissioner Slavik –

I still think that the conditional use makes some sense. This isn't going to happen very often. There is always going to be a lot of controversy where you're putting this kind of thing. I would like it to be more transparent than less transparent.

Dan Foote –

If you take cultivation out of it then I don't disagree with that. The existing 3 operations have at least 1. You could be talking about 5-6 public hearings a year. I can see the advantages of doing it that way.

Commissioner Meyer –

What role does the police department play right now in the approval of these sites?

Dan Foote –

They're not involved at all.

Commissioner Meyer –

They don't even have a list of where these places are.

Dan Foote –

They are involved in the licensing. They are included in the City Clerk's red robin process.

Bob Keenan –

The primary care center is a little bit different than the medical center. The primary care center is going to be allowed as a home operation. If we make it a conditional use then there's a \$1,500 application for up to 5 patients. I'm afraid that they won't come in to get the approval. We may get better compliance through an administrative approval.

Commissioner Hanlen –

With use with criteria we're still notifying surrounding property owners?

Bob Keenan –

No.

Commissioner Hanlen –

Do we just add that provision where we notify surrounding property owners and then there's a call-up provision for use with criteria. We keep it from becoming conditional use and keep the process simplified. I'm looking at a way to condense this code without making it too onerous.

Commissioner Slavik –

I'm wondering if that makes it more confusing, because we're not using a standard operating procedure we're creating another one.

Dan Foote –
We're already coloring out of the lines with this adjacency concept.

Commissioner Hanlen –
I would just like to have it simple and as straight forward as possible. You're looking at hopefully 1 place for the information.

Commissioner Slavik –
What's a surrounding property as opposed to an adjacent property?

Commissioner Beauregard –
I like the idea of a notification.

Commissioner Hanlen –
The exception to that would be the primary care giver and the cultivation and infused products are kept secret.

Commissioner Brookshire –
Just cultivation.

Commissioner Hanlen –
The care giver gets noticed? That seems non-necessary for notification. What's the difference between that and cultivation?

Commissioner Lacy –
The cultivation by statute nobody can receive notification.

Commissioner Hanlen –
Why would a primary care giver be any different?

Dan Foote –
The cultivation sites are offsite from the premise and are by statute confidential. If you're a primary care giver and you're cultivating onsite then that restriction doesn't apply. A primary care giver can't grow more than 25 plants.

Commissioner Robbins –
You have provisions in here that their requirements would change under the ordinance if they were granted that exception to have more than 5.

Dan Foote –
Yes. They wouldn't be operating as home occupations.

Commissioner Hanlen –

The notification only applied to the marijuana center?

Dan Foote –

You could use the use with criteria plus public notice. We can do that for any of the center's, infused products, and the care givers that are looking for approval to operate in the commercial districts.

Commissioner Slavik –

With public notice we get a lot more transparency. I don't want anyone to think that the process is in any way not as transparent as it can be.

Bob Keenan –

It's important to note that with the use with criteria's that they're basically use by rights. If that's the way you want to go is with a more transparent process then it should be a conditional use. They might not like it being next door to them, but if they meet all of the use with criteria then they can't do anything about it.

Commissioner Hanlen –

How do you protect both property owners in that case?

Dan Foote –

The goal is to modify the adjacency provisions or dispense with them.

Commissioner Hanlen –

You mean remove that whole language?

Dan Foote –

Correct.

Commissioner Lacy –

To accomplish the goal that I'm hearing is that we would almost have to by default have to go back to conditional use.

Commissioner Brookshire –

That sounds better to me.

Dan Foote –

You can do it with criteria, we would just have to have this criteria addressed to not have it next to a home.

Commissioner Hanlen –

My concern would be protecting both side's rights where a person can't simply make a token you would have to give some legal language where Council would be able to role with based off of a given criteria. I don't know how to phrase that where both sides feel protected in that.

Commissioner Beauregard –

That brings up the whole issue of the home care giver. If it's a home occupancy then you could have it in the residential zone district right? There are no criteria that it wouldn't be able to meet most likely. You're just notifying the neighbors to make them mad essentially.

Dan Foote –

A home occupation doesn't require any approval at all.

Bob Keenan –

A lot of them are conformance requirements where you can't have more than 1 trip to the home per week. You can't say they don't meet that ahead of time, but something that you need to monitor.

Commissioner Robbins –

The language that you have here says that you can't visit the dwelling unit.

Bob Keenan –

The home delivery can only happen once a week. That's in addition to the home occupation criteria that would not allow patients to go to the home.

Commissioner Robbins –

The legislation for being a care giver you have to be providing more than just medical marijuana as a service. If the patient can't come to you and you're providing them the service other than just medical marijuana how can they go about doing that if they can't visit the home?

Dan Foote –

The home is the grow site and the primary care giver is traveling to the patients.

Commissioner Robbins –

The scenario that I was thinking of is that the care giver has equipment or supplies that they have at the home to be providing the service for their patient. How can they do that if the patient can't visit the home?

Dan Foote –

They're going to have to find a location in the commercial district.

Commissioner Meyer –

If an HOA has a prohibition against commercial uses, I know that the City doesn't enforce HOA rules; do we need to put the community on notice? Does the state law trump an HOA rule?

Dan Foote –

No. If primary care giving is considered a commercial use then the HOA is able to prohibit that use.

Commissioner Hanlen –

I would like to keep it use with criteria just to keep the process as simple as possible. If we need to add a public notice provision for the centers then I would try and limit it to that just for the potential scale of that. Try and reduce as much of the language as possible in the ordinance as possible and keep this as simple as possible. I think there needs to be some kind of criteria where they can rule on it so both sides feel protected where it isn't just somebody voicing an objection and all of a sudden the proposal dies.

Commissioner Slavik –

I'm leaning more towards the conditional use permit. In terms of protection in conditional uses there is an appeal process. It gives both sides the opportunity to agree or disagree with whatever the conditional use decision use is. I will still prefer the increased transparency and process associated with conditional use.

Bob Keenan –

Is that for all of those uses except for the cultivation or just the center?

Commissioner Slavik –

All of those uses.

Commissioner Beauregard –

I agree with Commissioner Slavik except for the primary care givers I think we should pull them out of the conditional use. I think that Bob Keenan is correct. If we make it difficult for them then they're not going to come in here. They're not going to get a license. I still think that if they're doing that inside their home and nobody is coming to their house. If they want to do that inside their home then I don't think that it's going to bother anybody anyways.

Commissioner Meyer –

I will go with the conditional use. The reason is that we're looking at limited numbers. The state law is still shifting. It's easier to loosen it up than to tighten it up. I would rather be a little bit tighter as far as public scrutiny in the beginning and public rights. I think the unintended consequence we can't envision all of them. I would rather error on the side of caution and go to conditional use.

Commissioner Lacy –

I would agree with that too. I feel like that's more appropriate given the ever changing state of the law and the limited numbers.

Commissioner Levy –

I'm going in the opposite direction. I think the medical marijuana centers should be regulated related to other commercial operations including liquor. I'm not convinced that the grow centers especially the infused products manufacturing are much of an imposition on their neighbors. In the past the only way that I've heard about us finding out about grow operations is that somebody rats them out or they have to use infrared material. Or you can look at their electric bill to see that they are growing over night. If growing centers were

creating that much odor then you would think that we would be able to find them a lot easier than any of the examples that I've seen in the paper of us catching illegal growing operations. I'm not that keen on the complaints of the neighbors as I've seen for cultivation. It's another in home use. It's got to happen somewhere. I think that it's going a little bit overboard with regulations.

Commissioner Robbins –

I'm on the side of conditional use because of the ever changing state laws with regards to the medical marijuana use. I don't want to make it overly burdensome.

Commissioner Brookshire –

I'm with Commissioner Meyer and Commissioner Slavik on conditional use. I think it's the best thing for now.

Public Comment was taken.

Home Occupation

Commissioner Robbins –

I'm wondering why you decided as the home occupation that no patients could visit the home? If you can only have 5 patients anyways then you're not going to have a lot of foot traffic anyways. How do you regulate that if someone is just coming over to hang out? How do you know that they're not coming over to do something else?

Dan Foote –

We don't know in every case. There may be some cases where the neighbors may say that they've got a primary care giver operating next to them. We want to be able to respond to those situations.

Bob Keenan –

As far as limiting that is just typical of a home occupation.

Commissioner Robbins –

Usually you can have 2 visitors a day. Why did you limit it to '0' instead of the standard for home occupations of '2'?

Dan Foote –

We want to limit the impacts as much as possible.

Commissioner Brookshire –

Apparently the state law says that they have to provide some sort of care or service. What is that care or service?

Dan Foote –

Some of these people got prosecuted for the distribution of marijuana, but claimed that they were primary care givers. One of these people ended up in the court of appeals who said

that you have to do something other than distribute the marijuana. We don't know what that means.

Commissioner Levy –

In my previous comment about growing and infused product not being able to be a home occupation is the same thing. I'm really not convinced that they're going to be onerous to neighbors. They're not allowed commercial visitors already. I'm assuming that they're not getting huge deliveries. The other home occupation rules would make it acceptable in my mind.

Commissioner Beauregard –

It's just the primary care giver at the home occupation correct and then they get a state license?

Dan Foote –

Correct, and they do need a state license.

Commissioner Beauregard –

They can't exceed 30 plants and that's what the police will count. It's hard to tie in the 5 patient's right?

Dan Foote –

They have to have some kind of documentation that the patient has designated them as the care giver. For each patient they can possess up to 6 plants and 2 oz. of marijuana. We're making the care giver go to the patient. The care givers aren't supposed to be making a profit on the marijuana that they're growing.

Commissioner Beauregard –

How do you get these licenses?

Dan Foote –

Colorado Department of Public Health.

Commissioner Beauregard –

How do you find your patients? Do you advertise for that? The advertising must be the most appalling to me. The whole ordinance and medical marijuana if I didn't have to read the advertisements in the paper I'd be unaware that it even exists. If we have 50 people advertising as a primary care and distributor and they have to find their 5 patients.

Dan Foote –

I don't think that we're going to have a lot of advertising from primary care givers. I've seen the ads that you're talking about. If they can only have 5 patients then they probably won't need to advertise.

Commissioner Slavik –

I think that if we're going to allow this as a home occupation we've been pretty strict on what we allow home occupations to do and the deliveries. I'm not sure that we need to add a lot more on here. If we continue to have a fairly transparent process in the beginning and it becomes approved as a conditional use in the home occupation then we should just stick with the home occupation requirements and if that's 2 visits a day. What's the difference between those 2 visits there and 2 visits to some other home occupation that's next door to your house?

Dan Foote –

Some people have the perception that this is essentially dealing of illegal drugs and that the patients are drug addicts.

Commissioner Lacy –

How do Commissioners feel about home occupations in general? Do we want restrictions over and above what we already have? .

Commissioner Brookshire –

On pg 3-17 it talks about how they won't give a license to a person whom authority to be a primary care giver is defined by CRS...has been revoked by the State Health agency. The primary care giver is licensed by a State Health Agency?

Dan Foote –

Yes.

Commissioner Brookshire –

If they've had their license revoked then they wouldn't issue them a new license?

Dan Foote –

Not only can you not get a license you can't get a license to operate a medical marijuana center or infused product manufacturer. We as a City don't have the ability to require those people to get a license.

Commissioner Brookshire –

A licensed physician won't be given a license?

Dan Foote –

A licensed physician who is making recommendations to patients.

Commissioner Brookshire –

I'm not in favor of the home occupation at all. I would prefer that I wouldn't have to go up and down neighborhoods. To me it's like a commercial business. A home occupation is like a commercial business. They should essentially be in commercial zone districts. I'm not opposed to the conditional process. I think that allows the advertisement and public to know about it and publicly to attend hearings.

Dan Foote –

It seems like this is going to be a potential problem for us. It's going to be difficult for us to allow these people to operate in these zone districts. There's a concern that these operations are so small that it's not going to be feasible for them to lease a commercial space to operate in. If we say they can't operate as a home occupation then we may get a whole bunch of them operating under ground. The fire marshal said that it's probably a good idea for these people to have inspections.

Commissioner Brookshire –

I would just assume get it out of the residential zone districts.

Commissioner Levy –

About the complaint issue, don't we have specific rules to protect against that? An example is the Ghost Ranch Saloon. They weren't in violation of decibel levels, but got a ticket because the neighbors had an expectation that wasn't met by them. Wouldn't that also apply for excessive noise, odors, any of these home occupations or a zone district other than industrial?

Dan Foote –

Yes, if primary care operators cause as much trouble as the Ghost Ranch did then that's what I'm concerned about.

Commissioner Beauregard –

You could get a State license and be legally in possession of these 30 plants and not have the City's approval to grow somewhere. If you got caught you would in a violation of a municipal CDC violation which is like nothing. In that sense we're just going to put it under ground.

Dan Foote –

Noncompliance of these regulations isn't going to put these people in noncompliance of the more serious criminal laws.

Commissioner Brookshire –

You have no recourse then. If it's not allowed in your zone district and it's happening and you find out about it then you have recourse by going to the City. If it's a conditional use that's been approved then there's no recourse.

Commissioner Robbins –

I don't have a problem with primary care givers operating out of their home. I don't think that we should place more stringent restrictions on home occupations than we have for other home occupations.

Commissioner Levy –

Allow home occupations for all uses except for medical marijuana centers.

Commissioner Lacy –

I would agree with that too.

Commissioner Meyer –
I'll agree with Commissioner Levy.

Commissioner Beauregard –
You're saying the infusing and everything except for the center? That puts it over the 30 plants if it's an actual grow center, right? Not just a primary care center, but also an actual grow center, right?

Commissioner Levy –
It's within the home occupation rules. How much of the house that it's allowed to occupy, which keeps it pretty small. You can't have retail sales, no deliveries, or deliveries are limited to once a week. There's quite a list that limits how big of an operation it can be. Only 25% of your space can be devoted to that.

Commissioner Beauregard –
I would go as far as the primary care giver.

Commissioner Slavik –
If we're going to allow this as a home occupation or any piece of it as a home occupation then regulate it under the home occupation requirement. I do like what Commissioner Beauregard said that maybe home occupation of the guys that are a small enough operation that it's not an issue then we could do that. When you get into the infused products and the cultivation then I think that you probably should keep those further away from the residential districts.

Commissioner Lacy –
You would be more in favor of having 5 patients or less?

Commissioner Slavik –
Yes.

Commissioner Hanlen –
I would agree with Commissioner Levy. I think that we should keep the home occupation standards the same for these businesses instead of creating a different form. I point to the one example of how many home occupation uses get busted in a given year. I can't think of any examples.

Dan Foote –
I can only think of one complaint 8 years ago and I don't think that we sited them.

Commissioner Hanlen –
The beauty of the home occupation rules is that they're there if it gets out of hand. Most people can occupy well within those rules. I think that these could serve just fine.

Dan Foote –

(He went over some of the requirements of the home occupation standards). It does give us a lot of regulatory authority.

Commissioner Hanlen –

I give that example, because if someone was using their garage then that can easily presents a skewed ratio and 25% can get hit pretty quickly. I was the one who was pushing for 50%. It wasn't in this context. If someone was using their garage and the average garage is 576 square feet that all of a sudden you hit that number pretty quick.

Commissioner Levy –

Isn't home occupation only applied to in the residential zone districts?

Bob Keenan –

Yes, I think so.

Commissioner Levy –

For a live/work unit they don't have to apply for that same kind of restriction.

Bob Keenan –

It does say residential dwelling unit.

Commissioner Levy –

If you had a live/work industrial unit then you wouldn't need a home occupation permit. It could be residential or it could be commercial. I don't understand how we only approved cultivation and infused products in certain zone districts excluding residential zone districts. As a home occupation we have to allow it in residential zone districts.

Bob Keenan –

Agreed.

Commissioner Brookshire –

When you have a home occupation does it have to be owner occupied and/or could a tenant have a home occupation?

Commissioner Lacy –

It doesn't differentiate. It could be a renter or an owner.

Remaining Items

Commissioner Robbins –

On pg 3-15 section 12-202 renewal fee (2) in the redirect section it says 'the city clerk shall not refer the renewal application for public hearings only if the licensee has had complaints filed against it'.

Dan Foote –

Ignore the 'not'.

Commissioner Robbins –

On pg. 3-18 section 12-206 (4) ‘the number of licenses issued by the City shall be limited to no more than three’. Is that all types of licenses or just medical marijuana licenses?

Dan Foote –

That’s going to change. There’s going to be 3 centers and the City Council wants to have those centers vertically integrated.

Commissioner Robbins –

Are you going to have no more than 3 medical marijuana licenses and no more than 4 infused product manufacturing licenses? How is that going to look?

Dan Foote –

It’ll probably say no more than 3 medical marijuana licenses. A center licensee can hold 2 of the other licenses as well. I have not modified this since the City Council hearing in October.

Commissioner Robbins –

On pg 3-19 section 12-207 you have ‘medical marijuana dispensary license’ and I think it should say ‘center’. The same issue is on pg 3-20 section 12-210. Then in that same section under (1) ‘medical marijuana centers shall provide clients’. I would prefer it to say ‘patients’. On (5) in that same section ‘medical marijuana centers shall operate on an appointment only basis’ and I was wondering why that is? People may come out of town that want to stop in to purchase their medical marijuana. Do they need to call and make an appointment? What’s the basis for that?

Dan Foote –

That language may need to change.

Commissioner Robbins –

On (7) in that same section in the last sentence do you want to say anything like ‘also in accordance with state law’?

Dan Foote –

We could add that. The current administration regulation is going to eliminate most of these privacy protections. I don’t know how City Council is going to want to do that since they may want our police department to operate under the higher privacy standards.

Commissioner Levy –

On pg 3-11 section 26-402 (1) (c) regarding drive-up windows if there’s going to be a facility with drive-up windows from what I can gather City Council will hardly approve the dispensing of prescription drugs via a drive-up window. We had a comment from a pharmacist that said that there’s much more misuse among drive-up pharmacy clientele. If City Council felt that wasn’t an issue then I’m not sure why it’s an issue in this instance.

Dan Foote –

I'll make a note of that.

Commissioner Lacy –

Are you going to make some revisions to this? Are we going to see this again before City Council?

Dan Foote –

We do have time to bring this back.

Commissioner Lacy –

As we've mentioned tonight I know that there's a lot of pending legislation on this issue and it may affect the ultimate outcome of how we should draft our local ordinance. I don't know if you have any thoughts on that. Maybe give this another couple of months to make a final decision.

Dan Foote –

The one introduced in January hasn't been voted on yet. It could be fall before we see anything. The state is going to be starting to issue licenses under the new regime at first and if we don't have our ordinance in place by then it's going to create some problems when people come in to issue licenses. The industry is going to want to have something in place so they don't run into those problems. I'd like to have this in place by July 1. The way that this is written now if the January bill passes it would be a matter of plugging in a couple of new terms. This bill would issue 2 new licenses. One would be a facility for joint manufacturing of medical marijuana infused products. The second issue is primary care giver with more than 5 patients may have a separate licensing provision.

Commissioner Lacy –

It mentions in here hearings officer is that the liquor licensing authority is that the same?

Dan Foote –

Jim Moylan is going to be our appointed officer although he'll be the medical marijuana licensing authority.

Commissioner Brookshire –

If a tenant is looking for a permit for a home occupation is it proper and could the City require a signoff by the property owner?

Dan Foote –

No the tenant would not need to obtain the landlord's permission. Did you decide if you wanted to see this again?

Commissioner Lacy –

I think that I would, but I don't know how the rest of the Commissioners feel.

Dan Foote –

I was anticipating bringing it back in 2 weeks before City Council sees it. The City Council meeting is on March 1, but we can push that back into April if we need to. Would you like to see the ordinance amended or do you want some time to sleep on these concepts and come back and give me different recommendations the 2nd time around?

Commissioner Lacy –

I think we gave some recommendations on the conditional use. It sounded like a 5-2 vote in favor of that. I would like a little bit more time to go through the language and maybe ask a few more questions and maybe propose a few more amendments.

Commissioner Beauregard –

I would like to see it as its amended and how it's going to be presented to City Council.

Bob Keenan –

Typically we have a vote on a new ordinance that deals with land uses and we don't have that set up for tonight so that's another reason to bring it back.

Commissioner Levy –

Isn't there a larger policy discussion that we were going to have on this? I thought that there was a bigger question that City Council wanted our input on the overall discussion of expanding medical marijuana centers.

Dan Foote –

I got that in the sense of how do we protect our residential uses.

Commissioner Levy –

You told us that the City has the ability and I assume is collecting sales tax on the sales of medical marijuana. If that's the case then City Council has indicated the need for economic development and revenue collection. I don't see why we should be limiting this. Kevin said that marijuana is already prevalent in the community and I don't see how more marijuana centers are going to give more people marijuana. If there is a PR issue with a lot of them but I think that it's just bringing a problem more to the surface instead of keeping it underground. I don't see any real practical reason in limiting the number of sales units. We do it with liquor and maybe it should be done at a similar basis. That's a limit in name only. I haven't seen a new liquor license application get turned down in a long time.

Commissioner Hanlen –

Wasn't the primary concern from the police department that we wanted to restrict the total number of centers because we could keep tighter tabs on those total centers?

Dan Foote –

Yes.

Commissioner Hanlen –

It was tough to pull a real opinion out of the letter that they sent. Other than overall sense of fear did they feel like they were able to adequately police the centers that we do have? Is this going to cause some undue burden by expanding that number?

Dan Foote –

Joel said we'll do what we need to do, but it would make our job easier if we had fewer.

Commissioner Beauregard –

It seems to me that the primary care givers are the heart ache for them if that's unlimited. If we're limiting it to 3 centers, but having unlimited care givers.

Dan Foote –

I think that you're right. The primary care givers have the most potential for abuse and the least oversight. The state doesn't give us the ability to license them and they are protected constitutionally.

Commissioner Beauregard –

The problem that I have is the advertising. There's nothing that we can do about that, right?

Dan Foote –

The 1st amendment protects commercial speech only if it concerns lawful activity. Medical marijuana is still illegal under federal law. We could say that there's no 1st amendment protection and so no advertising allowed.

Commissioner Beauregard –

That's the biggest impact on me. My biggest concern about the whole thing is the social acceptance to the youth. They don't care if the adults smoke or use it medically. That scares me about all of this. If we have 15 centers I don't care if you didn't see the advertising. We have them hidden and we're going to have 30 primary care givers. It's the advertising for me. I don't know if we can limit that or tone it down. For me the number of centers is irrelevant.

Dan Foote –

Theoretically it's possible.

Commissioner Lacy –

Has City Council given you any more thoughts on that if they would want to restrict or get rid of advertising all together?

Dan Foote –

This was discussed when we adopted the original ordinance. There is a prohibition on the marijuana leaf symbol. There was a discussion on extending that ban to print advertising. City Council elected not to do that.

Commissioner Slavik –

It seems like a pretty clear analogy with tobacco that we don't have tobacco advertising. I think that there is definitely an analogy there if we're trying to prevent young people from smoking tobacco. I would think that we would want to have the same inclination toward misuse of marijuana.

Dan Foote –

The tobacco regulations came from the big tobacco industry losing the lawsuit. Before that there weren't many restrictions on tobacco advertising.

Commissioner Slavik –

When did the Joe Camel thing happen? That was before the litigation wasn't it?

Dan Foote –

Yes.

Commissioner Robbins –

The state statute also has provisions on advertising that it can't be aimed towards minors.

Commissioner Slavik –

Free joints on Wednesdays is ok.

Commissioner Robbins –

Yes. You probably have some limitation on the language saying we already have that on signs that you can't use marijuana or any related language. Maybe you can switch that into advertising.

Dan Foote –

You're not allowed to sell liquor below cost.

Commissioner Lacy –

Is it just mainly that City Council was worried that we were going down a slippery slope and we may be opening ourselves up to litigation if we further restrict advertising?

Dan Foote –

I don't know.

Commissioner Beauregard –

If you look into that then I think that you should look into the radio ads that go beyond medical treatment.

Commissioner Hanlen –

That center isn't in the city.

Dan Foote –

We may have some real jurisdictional and 40 problems if we try to regulate what a radio does.

Commissioner Robbins –

I don't think that we need to regulate the number of centers. I think that we should have it an open free market.

Commissioner Hanlen –

I don't mind a cap on the number, but it could probably be a lot more than where we currently have it at.

Bob Keenan –

It may be appropriate to discuss the infused product and cultivation manufacturer. Those are tied towards what we allow for a center.

Commissioner Robbins –

That was what I was getting at when I was talking about that provision. We were working already with the number if there was going to be a restriction on the manufacture and infused product.

Dan Foote –

I didn't get the sense that there was a whole lot of interest in opening things up for operations that are for dispensaries operating outside the city. The City Council is in the same position that you're in tonight.

Commissioner Meyer –

Right now I think that 3 is the right number. I'm concerned that the expectation of medical marijuana when it was voted on by the voters was may be something different than it's turned into. It's really turned into a retail product. I would assume to go slow rather than open it up and say come one come all.

Commissioner Lacy –

I would agree with that too just for now. I have a hard time seeing the need being met with what we have right now. With all of the changes going on I think that we could certainly take our time before we banned the ability of those centers to operate.

Commissioner Robbins –

Is that just the number for the medical marijuana centers or is that the total number including cultivation and infused product?

Commissioner Lacy –

I don't have a problem with those centers being able to tie in and have those same licenses.

Commissioner Meyer –

As far as the infused products this is supposed to be medical marijuana. Some people can't smoke and so this is just a different delivery system of the same product. I don't have

a concern as long as they're regulated. I can definitely see it being integrated into a retail center.

Commissioner Robbins –

Would you want to have a license for manufacturing of infused product entity that's not specifically tied to one of the medical marijuana centers here? Is there another license available for that kind of scenario in your vision?

Dan Foote –

They are licensed separately.

Commissioner Meyer –

I can see where 1 infused product provider could be providing in all 3 of the products.

Commissioner Robbins –

3 isn't really the number, it's just the number of centers.

Dan Foote –

You could have a separate license for Keebler marijuana cookies and sell those throughout the country.

Commissioner Beauregard –

If we can't regulate the advertising then I'm fine leaving it at 3. I think that 3 is enough to reduce the cost to the patient. It's competitive enough. If you had 1 then they could jack the price up.

Commissioner Slavik –

I agree with what Commissioner Meyer said that I think that 3 makes sense. Let's just see how it goes and how the laws are going to be changing before we go too far.

Commissioner Beauregard –

It's going to be much harder to eliminate 3 than to disallow 3. If we're instantly at 6 or 10 and it's too many then it's going to be much more difficult. How do we decide who to eliminate and I think that the ever changing law and how odd this all is let's not let it get out of hand.

Commissioner Brookshire –

Maybe when this comes back you can create some kind of spreadsheet that says these are the uses under the 4 different classifications such as the centers, cultivation, primary care giver, etc. When I first picked this up I was terribly confused trying to figure it all out. Do you think that we could have a table and then have our 4 categories? I started to understand some of the text, but if we had a central sheet where we could take a quick glance that say for example here are the centers and here's what they're allowed, here's the home occupation and as proposed is this, capacities, numbers of clients, etc. Take all of this text and create some sort of spreadsheet it might help me get a better picture of the whole discussion.

Commissioner Beauregard –

Some of the information that I hear too that I didn't see in the packet was the percentage of age groups that are licensed in this town. I think that I saw it in the paper that 70% of the people are 20-25 years old. I think that would be helpful.

Dan Foote –

I'll try and track that down.

Commissioner Brookshire –

Why is that relevant?

Commissioner Beauregard –

It has to do with the overall social acceptance to the youth. If we're licensing youth then I think that's a problem. I'm talking about people with medical marijuana cards not the centers.

Dan Foote –

I just realized that I'll be out of town in 2 weeks so we'll have this again at the 1st meeting in March.

Commissioner Lacy –

That's March 10.

PUBLIC COMMENTS

Kevin Fisher –

I'm one of the owners of Rocky Mountain Remedies. Unless City Council allows additional dispensaries we are where we are. We are in an industrial zone district because that's where we knew where we would be the most welcomed. When I first started this with Planning there were a lot of open spots where we could have gone. As far as conditional use if you're going to get involved with the primary care giver first, there's a bill that's been introduced into legislature, that's going to allow state licensure for any primary care givers. There's going to be a record and the data base is going to be there. If you think that by making it a rule that they have to get approval from their neighbor then people are going to stay underground. The people who have been growing will continue growing even if it's illegally. I don't have any personal interest in that aspect at all.

FINAL STAFF COMMENTS

None

FINAL COMMISSIONER COMMENTS

None

RECOMMENDED MOTION

Staff recommends the Planning Commission approve the attached draft ordinance amending the Community Development Code provisions relating to medical marijuana dispensary uses to accommodate changes in state law pertaining to medical marijuana

uses. In particular, the proposed ordinance divides the existing “Medical Marijuana Dispensary” use into the following four uses: medical marijuana center, optional premises cultivation operation, medical marijuana infused products manufacturing, and primary caregiver.

Discussion on this agenda item ended at approximately 6:52 p.m.

3/10/11

DRAFT

MEDICAL MARIJUANA DISCUSSION

Discussion on this agenda item started at approximately 5:09 p.m.

STAFF PRESENTATION

Dan Foote –

Since the last meeting I've made 2 substantial changes to the ordinance. 1.) To the use table to make all of these uses except for the cultivation conditional uses instead of uses with criteria. 2.) Change the home occupation language to permit cultivation and infused product manufacturing to operate as home occupations.

COMMISSIONER QUESTIONS

Commissioner Robbins –

We turned marijuana infused product manufacturing into a home occupation and you added language allowing for medical marijuana cultivation as a home occupation. Under the use criteria (d) for both of them they're prohibited to properties adjacent to properties zoned RE, RN, RO, RR. How can that be a home occupation if it's not allowed in those zone districts?

Dan Foote –

I could see some conflict there. Medical marijuana cultivation is prohibited adjacent to these zone districts, but when it's a home occupation that's what it is and not medical marijuana cultivation. It does look like it's a little bit inconsistent.

Commissioner Robbins –

I represent clients that can benefit or not benefit from the regulation.

Commissioner Lacy –

Since we're in the legislative function and not in the judicial that's not a problem or conflict in this case.

Dan Foote –

That will be an issue when I present this to the City Council. They were interested in some greater protection to some residential uses. There's an argument to be made that if they're operating under the home occupation rules then it's a different use, because they can't have any impacts on the neighboring properties. That's not the same if an applicant were to get an application approved in the industrial or commercial districts.

Commissioner Robbins –

Do you think that it would make sense to add some language in that letter (d) like 'except if operating as a home occupation' so it's not in contradiction?

Dan Foote –

I think that would make sense.

Commissioner Beauregard –

3/10/11

DRAFT

In the community as a whole we've spent a lot of time trying to keep a negative image towards drug use, marijuana use, etc and keep the kids off of it. I think that the advertising is going to make it more acceptable to everybody in the community to use especially the nature of the advertising being not so much medical advertising, but use in recreation advertising. That's the only concern that I have with this is the potential perception and acceptance of the recreational use.

Commissioner Lacy –

Dan Foote mentioned at work session that if we were going to look at anything like that that we would need to consider print ads.

Commissioner Beauregard –

Any advertising, but it would be really tough to regulate the radio.

Commissioner Lacy –

You were telling us on Monday that we would have to either consider a blanket ban on print ads or no ban at all. That's what I understood.

Dan Foote –

I think that it would be difficult to do what Commissioner Beauregard is suggesting.

Commissioner Beauregard –

You did say that Tyler Gibbs recommendation of just basic information such as location, product, etc might be something that we can regulate.

Dan Foote –

I think that it's difficult to start regulating the contents. Tyler Gibbs suggestion was objective and would give us some language that we could enforce. It's problematic enough to regulate advertising and when you go an additional step and change the content then it makes it a little bit more difficult. I think that if the Commission thinks that it's important then you could make a recommendation.

Commissioner Slavik –

Do we have any kind of regulations right now in terms of tobacco?

Dan Foote –

The City does not.

Commissioner Slavik –

There are State regulations for not advertising tobacco?

Dan Foote –

I'm not 100% sure.

Commissioner Beauregard –

3/10/11

DRAFT

To me those aren't equal since tobacco is a legal recreational drug. We're talking about a legal medicine. It should be under the same regulations such as the Viagra drugs where it says consult your doctor. For those medications you've got to get a prescription for this. If this is a prescription drug then why do we need 3 columns of advertising in the paper?

Commissioner Lacy –

How do Commissioners feel about some kind of limitation whether its some limitations like what Tyler Gibbs mentioned as far as being able to list location, hours, and very generic ads like that?

Commissioner Hanlen –

The comment that we came back to was the 1 business that seemed to be advertising in that manner isn't in the City limits.

Commissioner Beauregard –

The things that we could regulate are the print ads within the City.

Dan Foote –

If we have a medical marijuana center in the county that's advertised in the county then there's nothing that we can do about it. Assuming that we don't have a 1st amendment issue then that's enough of a basis for us to invoke our jurisdiction.

Commissioner Robbins –

There is also language in the statute that says that you can't advertise geared towards minors. Isn't that in the statute?

Dan Foote –

I don't remember it being in 1284, but that's 60 pages so I could have missed it.

Commissioner Lacy –

I would agree with Commissioner Beauregard in that I would like to see some limitations.

Commissioner Robbins –

I agree with Commissioner Beauregard as well as long as we're not violating any 1st amendment rights.

Commissioner Beauregard –

I'm comfortable with it. I don't think that there's a big difference between tobacco and this. This is a prescription medication.

Commissioner Lacy –

When we're talking about limitations would we want something like they can advertise their location, hours, name, business, etc.?

Commissioner Slavik –

3/10/11

DRAFT

Do we want to limit it to just medical marijuana or all prescription drugs? You go through a magazine today and you get 5-7 pages of Viagra ads or some other prescription drugs that are being advertised quite a bit in print. I don't know how far we go.

Dan Foote –

The fact that medical marijuana is still illegal under the federal law creates the possibility that we could regulate medical marijuana advertising. There's nothing we can do to restrict advertising for other prescription drugs.

Commissioner Slavik –

The issue is the legality of the medical marijuana.

Dan Foote –

Correct. The 1st amendment case law on commercial speech is that it can be regulated. It's only protected if it concerns lawful activity. Here we are talking about something that's legal under state law, but not under federal law. So far we have nothing telling us what that means under the 1st amendment case law.

Commissioner Meyer –

I don't have as big of a problem with the advertising. I would that we're going to be back here in 6 months with a potential litigation. Are you aware of any jurisdiction in the state that regulates advertising?

Dan Foote –

No.

Commissioner Meyer –

I would hate to see us be the guinea pig out there in terms of whether or not it's legal or not. So far what I've seen is businesses advertising businesses with the exception of the one entity out in the county that we can't regulate.

Commissioner Lacy –

We can regulate how they advertise within the City limits.

Commissioner Meyer –

I understand. I'm not ready to go there, but I will probably be in the minority. I am aware of the Grand Future survey that was recently done. It was just marijuana use in our high schools and middle schools. It was very surprising for me. I'm not saying that they're coming from a medical marijuana dispensary, but it's coming from somewhere especially when it comes to use in a vehicle. That's certainly has some public safety implications. I don't think the advertising is what's causing the fairly high numbers on that survey.

Commissioner Lacy –

No one wants to recommend anything that would be in violation of the 1st amendment or any constitutional or statutory law.

3/10/11

DRAFT

Commissioner Hanlen –

I see it being problematic, while you can lay out nice simple rules that you can only advertise hours, location, and very simple stuff..... It just seems like it's going to be problematic to enforce taste.

Commissioner Lacy –

We won't be regulating radio ads at all.

Commissioner Hanlen –

It seems like a problematic thing to enforce well.

Commissioner Beauregard –

I think that it's a fair exchange. We're allowing the dispensaries in town. I don't want to allow them at the sacrifice of all of this work that people are doing to prevent children and everyone from thinking its ok. I think that it's a fair burden on their part to take a responsible act.

(Commissioners have a 4-2 vote regarding enforcing advertising for medical marijuana).

Commissioner Beauregard –

I would feel comfortable with just saying this is a medical marijuana store and that's it.

Commissioner Lacy –

Before any recommendations are made to City Council we want you to feel comfortable that this is something that could legally be defended.

Dan Foote –

I'm not at that comfort level, but that doesn't mean that you can't make a recommendation.

Commissioner Beauregard –

I would feel comfortable with just banning it all together. Just the fact that the paper has a special section for medical marijuana is enough for me.

Commissioner Lacy –

That's what we would be doing. We're not saying that we want to deal at all with radio; we're talking about print ads. What I'm hearing from you is that you want to see the name of the store, that it's a medical marijuana dispensary, the hours and location.

Commissioner Beauregard –

I'd feel comfortable eliminating all print within the City, but if that's what we come to agree on then that's fine.

Commissioner Slavik –

I think that I would agree with Commissioner Beauregard that it might be easier to just say no print advertising in the City.

3/10/11

DRAFT

Commissioner Beauregard –

If it's so hard to get a license I mean you're going to be able to find these places.

Commissioner Robbins –

I don't think that I would feel comfortable with banning it. I think that it's a service that's provided and is supposed to be for patients. People come here that don't live here and how would they find it?

Commissioner Hanlen –

Print ads would apply to yellow pages as well.

Commissioner Lacy –

I'm more with you on that. I think that it's a little bit overreaching on our part to totally eliminate it.

Commissioner Beauregard –

If it's pretty cut and dry and medical looking like any other doctor's office would advertise.

Commissioner Robbins –

Under section 12-206 on pg 2-18 with the number of licenses issued I'm still a little bit confused to how that's working. You're saying that there are 3-4 different types of licenses and then you're saying that you're only issuing 3. I'm not clear on how many of each license. If you're just issuing 3 total licenses.

Dan Foote –

The idea is that we're going to issue 3 licenses for medical marijuana centers. The second sentence says off premise and infused products manufacturing licenses don't count against the 3 limit. This will allow the centers to also get cultivation and infused products manufacturing licenses as well.

Commissioner Robbins –

You wouldn't be able to get an off premise cultivation license unless you were an already existing medical marijuana center?

Dan Foote –

That would be the result of this ordinance and I think is part of the language for the House Bill 10-1284 as well.

Commissioner Robbins –

That's not the same for the infused product?

Dan Foote –

Correct.

Commissioner Robbins –

That's what this language has decided?

Dan Foote –

There has been 1 lady that has petitioned the City Council to allow her to operate an infused product manufacturing facility. I'm not sure what's going to happen with that.

Commissioner Robbins –

This makes sense the way that you explained it, but if someone else is looking for a license that does not already exist this is saying that they can't have one.

Dan Foote –

Essentially that's what this is going to say.

Public Comment was taken.

Commissioner Robbins –

Under the state regulations in order to apply for a license you need to have your local authority's permission. If you're operating as a home occupation is there a way?

Dan Foote –

There's a line on the form that the applicant has to send to the state and it asks if you're in compliance with the local ordinance. I think that some of these operating as a home occupation we could have the City Clerk fill it out and say yes and be done with it.

Jason Peasley –

We also review home occupations as a use with criteria. You receive an approved use criteria for that home occupation use.

Commissioner Lacy –

On pg 2-11 on the use criteria I need you to remind me from the last meeting the 500' limitation and why a childcare center isn't in there?

Dan Foote –

There are a lot of child care centers in town that aren't advertising. If we say 500' limit from any of those then we might end up with a ban.

Commissioner Lacy –

Isn't our definition of a child care center one that's licensed?

Dan Foote –

I think that the in-home ones have to be licensed.

Commissioner Hanlen –

Once you're caring for 3 or more children that aren't of your blood you have to get a license in order to operate that, correct?

3/10/11

DRAFT

Dan Foote –

I don't know what the limit is. I do know that it doesn't take many kids before you need a license.

Commissioner Lacy –

Does anyone have any questions regarding the use criteria on pg 2-11 under subpart (a)?

Commissioner Slavik –

It's repeated in each subsection.

Commissioner Lacy –

It talks about the centers and how they can't be located within 500' of a school, college, university, or seminary.

Commissioner Slavik –

We have to be careful. Is it just child care? We've talked about this in terms of what types of facilities are going into our industrial spaces whether it is a day care center or a gymnastic center. Where are we going to stop? I agree that childcare centers would be an important one. I'm almost more concerned about middle school and high school than I am the daycare in the final analysis. Let's use the Gymnastics center as an example kids might be riding their bikes there, they're taking the bus, or because of the potential ages daycares are normally pick-up and drop off by a parent. I'm still concerned about the potential access to children, but I'm more worried about that middle range.

Commissioner Beauregard –

I agree with Commissioner Slavik. If you just say that it just seems more of a residential activity than a playground or where kids are loitering around wondering what to do.

Commissioner Lacy –

I noticed a couple of spelling errors on pg 2-16 section 12-204 in the first sentence under subpart (1) 'appoint' should be 'appointed'. On the next page under subpart (h) under (f) 'remeday' should be 'remedy'. On pg 2-21 why was it that we changed the hours of operation to 8am instead of 7am on subpart (2)?

Dan Foote –

I did that because it's in 10-1284.

Commissioner Robbins –

On pg 2-13 in regards to the definition of home occupation are we still saying that patients still can't visit the dwelling unit? I know that the definition of home occupation allows for 2 visitors a day. Can you remind me again why we decided that it was going to be different?

Dan Foote –

That came out of my meetings with Bob Keenan and Tyler Gibbs.

Commissioner Lacy –

3/10/11

DRAFT

Is that just worried about the residential use? I'm sure that we were keeping as close to the residential character as possible.

Dan Foote –

That wouldn't explain why we allow 2 visitors a day for other home occupations. I don't have a good answer.

Commissioner Lacy –

The current home occupation standards do allow for 2 visits a day. Do we have an inconsistency there between those 2 ordinances?

Dan Foote –

I wouldn't call it an inconsistency, but it is different.

Commissioner Robbins –

I was wondering why that would be the case.

Dan Foote –

We're expecting this to be a bit of a lightning rod and we're trying to minimize the amount of impacts.

Commissioner Slavik –

Can I recommend that we just leave it with the regular 2 and see what City Council says?

(Commissioners are ok with that).

Dan Foote –

I will delete that. Currently it is stated in the ordinance that visitors may not visit the dwelling unit, but we're going to delete that language and default to the home occupation language allowing no more than 2 visitors to the dwelling unit a day.

Commissioner Lacy –

I wanted to make sure that everyone had a copy of Commissioner Brookshire's comments and if you had any questions regarding those.

Dan Foote –

Should I include that email in the City Council packet?

Commissioner Lacy –

Yes.

PUBLIC COMMENTS

Kevin Fischer –

Speaking to the print ad issue we try to keep our advertising not like the county advertising. We do get complaints from our patients regarding the county advertising and what that's doing to the medical marijuana industry. I agree with that. We do have prices and specials

3/10/11

DRAFT

in there since this is a competitive market. Medical marijuana use and the accessibility to the youth is statistically insignificant the change from now and pre-medical marijuana. I don't know that kids are using it more. I don't know that the community isn't better served by not having print ads. I'll see a full spread for Central Park Liquors. I think that liquor has a far more side effect than marijuana. 30% of the advertising in the Pilot is for liquor. The notion in keeping our kids safe by not having medical marijuana ads, but having liquor ads I think is a bit hypocritical.

JJ Southard –

I don't know if it's intended to discuss advertising for as long as we did. We're in agreement in some of the way the radio ads have been handled recently. I can see your point that it's strange to see that in the paper. None of us in the community would argue whatever the community wants in order to keep our children safe and keeping our parents happy we would be ok with. A chance to advertise in the paper gives us a chance to advertise to offer our services to people on the Front Range that might be coming up here. It gives them an easier chance to find us. The advertising does help a lot.

MOTION

Commissioner Robbins moved to approve the marijuana discussion with all of the amendments made tonight and Commissioner Meyer seconded the motion.

DISCUSSION ON MOTION

Commissioner Beauregard –

In this motion that doesn't include the advertising?

Commissioner Lacy –

Correct. We did have 4 people in support of that. The way that the motion was stated is that it was based off of all of the recommendations made tonight.

Commissioner Beauregard –

I didn't know if that was a side recommendation or tied to the ordinance or what.

Commissioner Lacy –

No.

VOTE

Vote: 6-0

Voting for approval of motion to approve: Lacy, Beauregard, Hanlen, Meyer, Robbins and Slavik

Absent: Brookshire and Levy

Discussion on this agenda item ended at approximately 5:46 p.m.

Dear City Council Members,

Prior to the upcoming May 17th meeting, I would ask that you please take time to reconsider your position on my request for a 'Manufacture of Infused Products' license.

At the previous meeting, you were given some incorrect information that I would like to clarify. City Council was told that there are three conditions that need to be met for State license approval. For dispensary licenses, that's correct. For MIP licenses there are only two conditions – City license approval prior to June 1st and State applications accepted by August 1st. The third condition, that dispensaries must grow 70% of their sales, is specific to dispensary licenses and is not a requirement for MIP licenses.

As you know, I met the August 1st deadline for my State license application. The second condition, City license approval, was not met. This was denied because the City has a cap of three licenses. Those licenses are for dispensaries. The City Ordinance currently in place does not address the manufacture of infused products and does not have licenses to grant specifically for that purpose. Consequently, my request was considered a request for another dispensary, and denied.

Since the last meeting, I have been in touch with Paul Schmidt, the gentleman from the Colorado Medical Marijuana Enforcement Division that addressed the Council. He has been working with me to do whatever possible to ensure approval of my State license. As he said, his job is to help me stay in business, not put me out of business.

When I applied for my State license, I did so without City license approval. I stated in the application that the City's Ordinance did not address MIP licenses. I noted (in my application) that the Council was revising the City Ordinance and addressing the need for MIP licenses. At that time and up to the last Council meeting I truly thought that I would be granted one of those licenses.

Mr. Schmidt and the State of Colorado have decided that my application was done in good faith. Therefore, the State will approve my license, **if** the City will approve my license. (This has been confirmed by Dan Foote.) I hope that City Council will help me stay in business, and allow me to continue to provide a quality product for those in need. This is a business that our community needs. Please, reconsider granting me a license with the City.

If you have any questions, please feel free to call or email me. I appreciate your time and consideration.

Sincerely,

Lisa Kamieniecki

lisakami@yahoo.com

846-5617

Previously e-mailed

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING PROVISIONS RELATING TO MEDICAL MARIJUANA BUSINESSES SET FORTH IN CHAPTER 12, ARTICLE VI AND SECTION 26-92 OF THE REVISED MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND REPEALING ALL CONFLICTING ORDINANCES.

WHEREAS, on January 5, 2010 the Steamboat Springs City Council adopted Ordinance No. 2296 for the purpose of regulating medical marijuana dispensaries, which are businesses that manufacture or distribute marijuana for medical use to persons registered as patients pursuant to Article XVIII, Section 14 of the Colorado Constitution, and which were organized on a theory that the dispensary and its suppliers of medical marijuana functioned as “primary caregivers” for registered medical marijuana patients pursuant to the terms of Article XVIII, Section 14; and

WHEREAS, the Colorado General Assembly has since adopted House Bill 10-1284, which provides statutory authority for the operation of businesses for the purpose of manufacturing, possessing, and distributing marijuana for medical purposes without regard to whether the business or its owner, managers, employees, or suppliers are “primary caregivers” per Article XVIII, Section 14; and

WHEREAS, House Bill 10-1284 also adopts different regulations for persons manufacturing, possessing, and distributing marijuana as “primary caregivers” per Article XVIII, Section 14; and

WHEREAS, HB 10-1284 redefines the legal framework for the lawful operation and regulation of businesses and caregivers who manufacture, possess, or distribute marijuana for medical purposes; and

WHEREAS, the City Council of the City of Steamboat Springs finds it necessary and appropriate to the public health, safety, and welfare to revise the provisions of Ordinance No. 2296 in order to harmonize the City’s regulations with the provisions of HB 10-1284 and to address new regulatory questions created by HB 10-1284.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS THAT:

Section 1. The Use Table codified at Section 26-92 of the Steamboat Springs Community Development Code shall be amended to read as follows:

Use Classification and Specific Principal Uses	Zoning Districts															
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	
COMMERCIAL USES																
Medical Marijuana Dispensary Center										ERC	ERC	C		ERC	ERC	
Medical Marijuana Cultivation															CR	
Medical Marijuana-Infused Products Manufacturing															ERC	
Medical Marijuana Primary Caregiver										ERC	ERC	ERC		ERC	ERC	

Section 2. Section 26-402 of the Steamboat Springs Community Development Code shall be amended by the addition of the following definitions and use criteria:

Medical Marijuana Business means a medical marijuana center, medical marijuana cultivation, or medical marijuana infused products manufacturing.

Medical Marijuana ~~Dispensary Center~~ means any use of any property, structure, or vehicle to ~~dispense-sell or distribute~~ marijuana or marijuana infused products ~~in any form and in any manner~~ to patients or primary care givers, ~~or to grow or otherwise manufacture marijuana for such purpose,~~ in accordance with Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana

Act, C.R.S. 12-43.3-101, et. seq., and with any other statute or state administrative regulations ~~implementing Article XVIII, Section 14.~~ This definition shall not apply to the distribution of medical marijuana to patients by a primary caregiver in accordance with Article XVIII, Section 14 of the Colorado Constitution.

(1) Use criteria:

- (a) Medical marijuana ~~dispensaries-centers~~ shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the school to the building in which the medical marijuana ~~dispensary-center~~ is located.
- (b) Medical marijuana ~~dispensaries-centers~~ shall operate from a permanent and fixed location. No medical marijuana ~~dispensary-center~~ shall operate from a vehicle or other moveable location. Nor shall any medical marijuana ~~dispensary-center~~ provide delivery services except that deliveries may be made to patients whose medical condition precludes their travel to the medical marijuana ~~dispensarycenter~~.
- (c) Medical marijuana ~~dispensaries-centers~~ shall have staff members present during hours of operation. No vending machines, ~~drive-up windows~~, or unsupervised transactions shall be permitted.
- (d) Medical marijuana ~~dispensaries-centers~~ shall not display signs visible from the exterior of the ~~dispensary~~ premises advertising the presence of marijuana on the premises. This restriction shall include, but shall not be limited to, the use of signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant. This restriction shall not apply to the use of the word "marijuana", its synonyms, or depictions ~~in print advertising or~~ broadcast advertising or the dissemination of informational materials or other documents by a medical marijuana ~~dispensarycenter~~.
- (e) Medical marijuana ~~dispensaries-centers~~ shall not be located on pedestrian levels of structures in the CY and CO zone districts.
- (f) Medical marijuana centers shall not operate on property adjacent to property zoned RE, RN, RO, RR, MH, MF, G-1, G-2, or CC.

(2) Medical marijuana ~~dispensaries-centers~~ shall not be permitted to operate as "home occupations.

Medical Marijuana Cultivation means the cultivation of marijuana by a medical marijuana center or a medical marijuana infused products manufacturer in accordance with the Colorado Medical Marijuana Act, C.R.S. 12-43.3-101, et. seq. and with any other statute or state administrative regulations. This definition

shall not apply to the cultivation of medical marijuana by a patient for the patient's personal use pursuant to Article XVIII, Section 14. Nor shall this definition apply to the cultivation of medical marijuana by a caregiver registered with the Department of Public Health pursuant to C.R.S. 25-1.5-106 or the distribution of medical marijuana by such a caregiver to the caregiver's patients.

(1) Use criteria:

- (a) Medical marijuana cultivation uses shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the school to the building in which the medical marijuana center is located.
- (b) Medical marijuana cultivation uses shall operate from a permanent and fixed location. No medical marijuana cultivation use shall operate from a vehicle or other moveable location.
- (c) Medical marijuana cultivation uses shall not display signs visible from the exterior of the premises advertising the presence of marijuana on the premises. This restriction shall include, but shall not be limited to, the use of signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant. This restriction shall not apply to the use of the word "marijuana", its synonyms, or depictions in print advertising or broadcast advertising or the dissemination of informational materials or other documents by a medical marijuana center.
- (d) Medical marijuana cultivation uses shall not operate on property adjacent to property zoned RE, RN, RO, RR, MH, MF, G-1, G-2, or CC.

(2) Medical marijuana cultivation uses shall not operate as home occupations.

Medical Marijuana Infused Products Manufacturing means the manufacture of products infused with medical marijuana intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, or tinctures, in accordance with the Colorado Medical Marijuana Act, C.R.S. 12-43.3-101, et. seq. and with any other statute or state administrative regulations.

(1) Use criteria:

- (a) Medical marijuana infused product manufacturing uses shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the school to the building in which the medical marijuana infused products manufacturing use is located.

(b) Medical marijuana infused products manufacturing uses shall operate from a permanent and fixed location. No medical marijuana infused products manufacturing uses shall operate from a vehicle or other moveable location.

(c) Medical marijuana infused products manufacturing uses shall not display signs visible from the exterior of the premises advertising the presence of marijuana on the premises. This restriction shall include, but shall not be limited to, the use of signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant. This restriction shall not apply to the use of the word "marijuana", its synonyms, or depictions in print advertising or broadcast advertising or the dissemination of informational materials or other documents by a medical marijuana infused products manufacturer.

(d) Medical marijuana infused products manufacturing uses shall not operate on property adjacent to property zoned RE, RN, RO, RR, MH, MF, G-1, G-2, or CC.

(2) Medical marijuana infused products manufacturing uses shall not operate as home occupations.

Medical Marijuana Primary Caregiver shall mean the cultivation or distribution of medical marijuana to patients by a primary caregiver pursuant to Article XVIII, Section 14 of the Colorado Constitution and C.R.S. 25-1.5-106.

~~(1) Use criteria.~~ 1) Use criteria.

(a) Medical marijuana primary caregivers shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the school to the building in which the medical marijuana infused products manufacturing use is located.

(b) Medical marijuana primary caregivers shall operate from a permanent and fixed location. No medical marijuana primary caregiver shall operate from a vehicle or other moveable location.

(c) Medical marijuana primary caregivers shall not display signs visible from the exterior of the premises advertising the presence of marijuana on the premises. This restriction shall include, but shall not be limited to, the use of signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant. This restriction shall not apply to the use of the word "marijuana", its synonyms, or depictions in print advertising or broadcast advertising or the dissemination of informational materials or other documents by a medical marijuana infused products manufacturer.

- (d) Medical marijuana infused products manufacturing uses shall not operate on property adjacent to property zoned RE, RN, RO, RR, MH, MF, G-1, G-2, or CC.
- (e) Medical marijuana centers shall have staff members present during hours of operation. No vending machines, ~~drive up windows~~, or unsupervised transactions shall be permitted.
- (f) Primary caregiver uses are prohibited from operating on pedestrian levels in CY and CO zone districts unless they are accessory to uses permitted to operate in those locations.

(2) Home Occupations. Primary caregivers with no more than five patients may operate in a dwelling unit as a home occupation if the use satisfies the home occupation requirements ~~and if patients do not visit the dwelling unit~~. Primary caregivers operating as a home occupation may cultivate medical marijuana if the cultivation complies with the definition of a home occupation and after inspection of the cultivation site for compliance with applicable building and fire codes and payment of an inspection fee in the amount of \$ _____.

Section 3. Chapter 12 of the Steamboat Springs Revised Municipal Code is hereby revised by the addition of the following Article VI.

"Article VI. Medical Marijuana ~~Dispensaries~~Businesses.

Division 1. License.

Section 12-200. License required. It is unlawful for any person to own or operate a medical marijuana ~~dispensary-business~~ as that term is defined in the community development code without first obtaining a license as provided in this article. The following three types of business operations as defined in the Colorado Medical Marijuana Act, C.R.S. 12-43.3-101, et. seq. may be licensed hereunder: medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing.

Section 12-201. Application; ~~term~~-fee. Any person operating or proposing to operate a medical marijuana ~~dispensary-business~~ shall first procure from the city clerk a medical marijuana ~~dispensary-business~~ license, which the clerk shall issue in accordance with the following procedures:

- (1) A person seeking to obtain a license pursuant to this article shall submit an application to the city clerk. The form of the application shall be provided by the city clerk.

(2) A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required licenses and permits related to the operation of the medical marijuana ~~dispensary~~business, including, without limitation, any development approval required by the Community Development Code; a sales tax license; and a building, mechanical, plumbing, or electrical permit.

(3) An application for a license under this article shall contain the following information and documents:

- (a) ~~The applicant's name, address, telephone number, and social security number and, if the applicant is a partnership, the names and addresses of all the partners, and if the applicant is a corporation, the names and addresses of all the corporate officers, and if the applicant is a cooperative association, the names and addresses of its directors and officers~~completed state and local licensing authority application forms;
- (b) A completed individual history form, including a set of the applicant's fingerprints, for the applicant and for any person owning ten percent or more of the medical marijuana business;
- (c) The street address of the proposed medical marijuana ~~dispensary~~business;
- (d) If the applicant is not the owner of the proposed location of the medical marijuana ~~dispensary~~business, a notarized statement ~~form~~ from the owner of such property authorizing the submission of the application;
- (e) An acknowledgement by the applicant that the applicant and its owners, officers, and employees may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances; that the City of Steamboat Springs accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana ~~dispensary~~business; and that the application and documents submitted for other approvals relating to the medical marijuana dispensary operation, with the sole exception of the location of an optional premises cultivation operation, are subject to disclosure in accordance with the Colorado Open Records Act.
- ~~(f) In the case of a cooperative association, the application shall include articles of incorporation and/or any other documents necessary to demonstrate that the applicant is a cooperative association as defined in this article.~~
- (f) A complete and accurate list of all owners, officers, managers, and employees of the medical marijuana business and of all persons having a direct or indirect financial interest, and the nature of such

interest, in the medical marijuana business, including names and addresses for such persons.

(g) Plans and specifications for the interior of the building in which the medical marijuana business is to be located. If the building is not in existence, the applicant shall file a plot plan and detailed sketch for the interior and submit an architect's drawing of the building to be constructed.

(h) Evidence that the applicant is, or will be, entitled to possession of the premise for which application is made under a lease, rental agreement, or other arranged for possession of the premises, or by virtue of ownership of the premises.

(4) The applicant shall pay to the City a non-refundable application fee of \$400 when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application.

(5) The City shall not accept or act upon an application for a medical marijuana business license if the application concerns a particular location that is the same as or within one thousand feet of a location for which, within the two years immediately preceding date of the application, the City or the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location.

Section 12-202 Renewal; fee. Each license issued pursuant to this chapter shall be valid for a period of ~~one year~~two years from the date of issuance, and may be renewed as provided in this section.

(1) An application for renewal shall be made to the city clerk not less than forty-five days prior to the date of expiration and shall be accompanied by an application fee in the amount of \$100. The city clerk will accept late applications not more than ninety days after the date of expiration upon payment of a \$500 late application fee. The City Clerk will not in any circumstances accept renewal applications more than ninety days after the date of expiration.

(2) The license shall be renewed by the city clerk unless it appears to the city clerk that ~~good cause~~grounds exists to deny the renewal application, in which case the city clerk shall refer the application to the hearings officer appointed by the City Council for review at a public hearing. The city clerk shall refer the renewal application for public hearings only if the licensee has had complaints filed against it, the licensee has a history of violations, or there are allegations against the licensee that would constitute good cause for denial of a license as defined in the Colorado Medical Marijuana Act. The City Council shall rely on Section 12-~~204~~206 in determining whether to renew a license.

(3) The City shall not authorize a renewal until the applicant produces a license issued and granted by the state licensing authority covering the period for which the renewal is sought.

Section 12-~~202~~203. Investigation of applicant.

(1) Upon receipt of an application for a license under this article, the city clerk shall transmit copies of the application to the Department of Public Safety, the City Manager, the Department of Community Development, and any other person or agency who the city clerk determines should participate in the review of the application. The City or any of its departments or officials may visit and inspect the plant or property in which the applicant proposes to conduct business and investigate the fitness to conduct such business of any person, or the officers and directors of any corporation, or the partners of any partnership applying for a license.

(2) In investigating the fitness of the applicant, the City may obtain criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the City takes into consideration information concerning the applicant's criminal history record, the City shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(3) Not less than five days prior to the date of the public hearing on a license application or, in the event of an application for which no public hearing is scheduled, not less than five days prior to the decision whether to approve or deny an application, the city clerk shall make known the findings of the investigation in writing to the applicant and other parties of interest.

Section 12-204. Public hearings; notice; publication.

(1) Public hearings before the City Council or a hearings officer appointed by the City Council shall be required for the following types of applications and determinations:

- a) Applications for a medical marijuana center license or for the relocation of such a license, which shall be reviewed by the City Council;
- b) Renewal applications when the city clerk determines grounds exist for denial per Section 12-202(2) of this article, which shall be reviewed by the hearings officer appointed by the City Council;
- c) Suspensions or revocations of any license, which shall be heard by the hearings officer appointed by the City Council;

- (2) The following types of licenses may be approved by the city clerk:
- a) Applications for optional premises cultivation operations or for the relocation of such a license;
 - b) All renewal applications, unless the city clerk determines grounds exist for denial per Section 12-202(2) of this article;
 - c) Applications for medical marijuana infused products manufacturing or for the relocation of such a license.
- (3) In the event an application is scheduled for a public hearing the city clerk shall post and publish public notice thereof not less than ten days prior to the hearing.
- a) Public notice given by posting shall include sign of suitable material, not less than twenty two inches wide and twenty six inches high, composed of letters not less than one inch in height and stating the nature of the type of license applied for, the nature of the hearing, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. In the case of a new license application, the sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed. The sign shall be placed on the subject premises in a location that is conspicuous and plainly visible to the general public.
 - b) Public notice given by publication shall contain the same information as that required for signs.

Section 12-~~203~~205. Persons prohibited as licensees.

- (1) No license provided by this article shall be issued to or held by:
- (a) Any person whose criminal history indicates the person is not of good moral character;
 - (b) Any corporation, any of whose officers', directors', or stockholders' holding ten percent or more of the outstanding and issued capital stock thereof are criminal histories indicate such person is not of good moral character;
 - (c) Any partnership, association, or company, any of whose officers', or any of whose members' holding ten percent or more interest therein, criminal histories indicate such person is are not of good moral character;
 - (d) Any person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates such person is not of good moral character or who is not a resident of Colorado;
 - (e) Any cooperative association, any of whose officers', directors', or stockholders' or members' holding ten percent or more of the

~~outstanding and issued capital stock thereof are~~ criminal histories indicate that such person is not of good moral character

- (f) A licensed physician making patient recommendations;
- (g) A person under twenty-one years of age;
- (h) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to:
 - a) Provide surety bond or file any tax return with a taxing agency;
 - b) Pay any taxes interest, or penalties due;
 - c) Pay any judgments due to a government agency;
 - d) Stay out of default on a government issued student loan;
 - e) Pay child support; or
 - f) Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency; or an outstanding delinquency for child support.
- (i) A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution or use of a controlled substance
- (j) A person who employs another person at a medical marijuana facility who has not passed a criminal history record check;
- (k) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;
- (l) A person whose authority to be a primary caregiver as defined in C.R.S. 25-1.5-106(2) has been revoked by the state health agency;
- (m) A person for a license for a location that is currently licensed as a retail food establishment or wholesale food establishment; or
- (n) A person who has not been a resident of Colorado for at least two years prior to the date of the person's application; except that for a person who submits an application for licensure pursuant to this article by December 15, 2010, this requirement shall not apply to that person if the person was a resident of the state of Colorado on December 15, 2009.

(2) In making a determination as to character or when considering the conviction of a crime, the City Council shall be governed by the provisions of Section 24-5-101, C.R.S.

(3) The focus of the inquiry into the moral character of any person associated with the operation of a medical marijuana business shall be whether the person's character is such that violations of state law or City

ordinances pertaining to the possession and distribution of marijuana and/or the operation of medical marijuana dispensaries would be likely to result if a license were granted.

Section 12-~~204~~206. Issuance or denial of license.

(1) ~~The City Council shall issue a license under this article upon the following findings of the City Council~~In determining whether to issue a license under this article, the City Council may consider the following:

- (a) ~~The~~Whether the application is complete and signed by the applicant;
- (b) ~~The~~Whether the applicant has paid the application fee;
- (c) ~~The~~Whether the application complies with all the requirements of this article, the Colorado Medical Marijuana Act, and rules promulgated by the state licensing authority;
- (d) ~~The application does not contain~~Whether the application contains any material misrepresentations;
- (e) Whether the proposed medical marijuana business complies with applicable zoning regulations. The City Council shall make specific findings of fact with respect to whether the building in which the proposed medical marijuana business will be located conforms to the distance requirements set forth in the applicable use criteria.
- (f) The facts and evidence adduced as a result of its investigation;
- (g) Any other facts pertinent to the type of license for which application has been made, including the number, type, and availability of medical marijuana outlets located in or near the premises under consideration; and
- (h) In the case of an application for a second license, after considering the effect on competition of granting or denying the additional license, that the issuance of a second license will not have the effect of restraining competition.

(2) The City Council ~~shall~~may deny the license application ~~if the application fails to meet any of the standards set forth in subsection (1) of this section or if the applicant or any its partners, officers, or directors, members, or shareholders is not of good moral character~~for good cause as defined in C.R.S. 12-43.3-104(1). The focus of the inquiry into the moral character of any person associated with the operation of a medical marijuana dispensary shall be whether the person's character is such that violations of state law or City ordinances pertaining to the possession and distribution of marijuana and/or the operation of medical marijuana dispensaries would be likely to result if a license were granted.

- (3) The City Council may impose reasonable conditions upon any license issued pursuant to this article.
- (4) The number of licenses issued by the City shall be limited to no more than three. Off premises cultivation and infused products manufacturing licenses shall not be subject to this limit if the applicant holds or has successfully applied for a medical marijuana center license. One of the three licenses shall be issued only to an entity operating as a cooperative association, as defined by C.R.S. 7-55-101, et. seq., organized for the purpose of operating a marijuana dispensary, without gain to itself, for the sole benefit of its shareholders or members. The provisions of C.R.S. 7-55-101(a) notwithstanding, a cooperative shall be owned and controlled by its shareholders, partners, or members and shall dispense marijuana for medical purposes only to its shareholders or members. A cooperative association shall keep and maintain all books, records, and documents necessary to demonstrate its continued operation as a cooperative association and shall promptly produce such books, records, and documents upon request of the City Clerk. In the case of multiple applications for an available license, the City Clerk shall publish the availability of the license and assign priority by lot to each completed application received within forty-five days of the date of publication. The foregoing notwithstanding, priority for the initial licensing round hereunder shall be assigned to existing operators of the ~~two~~ three existing licensed medical marijuana dispensaries located in Steamboat Springs.
- (5) Within thirty (30) days after the public hearing or completion of the application investigation, the City shall issue its decision approving or denying the application. The decision shall be in writing, shall state the reasons for the decision, and a copy of the decision shall be mailed by certified mail to the applicant at the address shown on the application.
- (6) The City shall not issue a license until the building in which the business to be conducted is ready for occupancy and has been inspected for compliance with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.
- (7) After approval, the City shall notify the state licensing authority of such approval.

Section 12-~~205~~207. Contents and display of license. The licensee shall post the license in a conspicuous location at the medical marijuana dispensary. A medical marijuana dispensary center license shall contain the following information:

- (1) The name of the licensee;
- (2) The date of issuance of the license;
- (3) The street address at which the licensee is authorized to operate the medical marijuana dispensary;
- (4) Any conditions of approval imposed upon the license by the City Council;
- (5) The date of expiration of the license; and
- (6) The license shall be signed by the applicant and the city clerk.

Section 12-~~206~~208. Transfer/termination. ~~Licenses issued pursuant to this article are not transferable. Any attempt to transfer or assign a license voids the license. In the event of the sale of a licensee's medical marijuana dispensary business, the licensee shall give the City notice of the date of closing and the license shall terminate on that date. The purchaser of the medical marijuana dispensary may apply for a license hereunder prior to the closing date if the purchaser produces the purchase contract or other document evidencing the purchaser's right to purchase. The effective date of any application issued to a purchaser per this section shall be the date of closing.~~ A license holder wishing to transfer ownership of the medical marijuana business shall apply for such a transfer on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the City shall consider only the provisions of this article, of the Colorado Medical Marijuana Act, and any rules promulgated by the state licensing authority.

Section 12-~~207~~209. Suspension or revocation.

- (1) A license issued pursuant to this article may be suspended or revoked by the City Council, or the hearings officer appointed by the City Council for the purpose, after a hearing for the following reasons:
 - (a) Fraud, misrepresentation, or a false statement of material fact contained in the permit application;
 - (b) Any violation of City ordinance or state law pertaining to the operation of a medical marijuana ~~dispensary business, including regulations adopted by the state licensing authority,~~ or the possession or distribution of marijuana.
 - (c) A violation of any of the terms and conditions of the license;
 - (d) A violation of any of the provisions of this chapter.
- (2) In deciding whether a license should be suspended or revoked, and in deciding whether to impose conditions in the event of a suspension, the City Council, or the hearings officer appointed by the City Council, shall consider:

- (a) The nature and severity of the violation;
- (b) Corrective action, if any, taken by the licensee;
- (c) Prior violation(s), if any, by the licensee;
- (d) The likelihood of recurrence of the violation;
- (e) The circumstances of the violation;
- (f) Whether the violation was willful; and
- (g) Previous sanctions, if any, imposed on the licensee.

(3) The provisions of the Colorado Medical Marijuana Act shall govern proceedings for the suspension or revocation of a license issued hereunder.

(4) The hearings officer may impose a fine in lieu of a suspension in accordance with the provisions of C.R.S. 12-43.3-601(3).

Section 12-210. Change of Location.

(1) A licensee may move his or her permanent location to another location in the City, but it shall be unlawful to cultivate, manufacture, distribute, or sell medical marijuana at any such place until permission to do so is granted by the City and the state licensing authority.

(2) In permitting a change of location, the City shall consider all reasonable restrictions that are or may be placed on the new location and any such new location shall comply with all requirements of this article, the Colorado Medical Marijuana Act, and rules promulgated by the state licensing authority.

(3) The City shall not authorize a change of location until the applicant produces a license issued and granted by the state licensing authority covering the period for which the change of location is sought.

Division 2. General requirements.

Section 12-211. Operational requirements. Medical marijuana ~~dispensaries~~ centers shall comply with the following operational requirements:

- (1) Medical marijuana ~~dispensaries-centers~~ shall provide ~~clients~~ patients contact information for local drug abuse treatment centers as well as educational materials regarding the hazards of substance abuse.
- (2) Medical marijuana ~~dispensaries-centers~~ shall operate only during the hours of 7:00 a.m. to 7:00 p.m.
- (3) Medical marijuana ~~dispensaries-businesses~~ shall provide adequate security on the ~~dispensary-business~~ premises, which shall include the following:

- (a) Twenty-four hour security surveillance cameras to facilitate the investigation of crimes and to include video and audio capabilities, with a redundant power supply and circuitry to monitor entrances/exits and parking lot along with the interior and exterior of the premises. Fifteen days of security video and audio shall be preserved for 30 days. The dispensary owner may, but shall not be required to, provide segments of surveillance footage upon request to law enforcement officers investigating crimes committed against the dispensary or its patients. The dispensary owner shall not be required to produce surveillance footage disclosing the identity of dispensary patients and may edit surveillance footage to protect patient privacy. The resolution of these color cameras will be of sufficient quality to allow for the identification of the subject's facial features, in all lighting conditions, in the event of a crime.
- (b) A burglar alarm system that is professionally monitored and maintained in good working order;
- (c) A locking safe permanently affixed to the premises suitable for storage of the dispensaries' inventory and cash; all to be stored during non-business hours; live plants being cultivated shall not be deemed inventory requiring storage in a locked safe.
- (d) Exterior lighting that illuminates the exterior walls of the dispensary and that complies with the lighting code set forth in this Community Development Code.

(4) No firearms, knives, or other weapons shall be permitted in a marijuana dispensary center except those carried by sworn peace officers.

~~(5) Medical marijuana dispensaries centers shall operate on an appointment only basis.~~

(6) Marijuana shall not be consumed or used on the premises of a medical marijuana dispensary center and it shall be unlawful for a medical marijuana licensee to allow medical marijuana to be consumed upon its licensed premises. In the case of a medical marijuana dispensary business located in a structure with a legal secondary unit or other legal dwelling unit, the dwelling unit shall not be considered part of the medical marijuana dispensary business premises if access to the dwelling unit is prohibited to the medical marijuana dispensary patients business customers.

(7) Medical marijuana dispensaries businesses shall comply with the provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Act, rules promulgated by the state licensing authority, and with any other relevant Colorado statute or administrative regulation. The operator of a medical marijuana dispensary business shall provide evidence of said compliance and shall permit the inspection of the premises upon request of any sworn peace officer in the employ of the

City of Steamboat Springs Department of Public Safety. Inspection of the premises shall be limited to determining the quantity of marijuana and marijuana plants present on the premises and obtaining written evidence of the ~~operator's status as a patient or primary care giver to a patient or number of patients sufficient to establish the medical use of the~~ marijuana licensee's authority to possess such quantity of medical marijuana. Registry identification cards with patient names and other identifying information redacted shall be deemed satisfactory written evidence if the registration identification cards' serial number(s) are not redacted. In the event the ~~dispensary medical marijuana center~~ serves patients who have applied for a registry identification card thirty five or more days prior to the inspection and who have not received such card, the operator may produce the patient's caregiver designation with the patient's name and identifying information redacted as evidence of compliance, in which case the operator shall produce the patient's redacted registry identification card when it is received by the patient. The operator of a medical marijuana ~~dispensary center~~ shall not be required to disclose patient name(s) or other identifying information except as required by a duly issued court order or warrant.

(8) Medical marijuana dispensaries shall sell or distribute only marijuana lawfully grown in compliance with Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Act, rules promulgated by the state licensing authority, and with any other relevant Colorado statute or administrative regulation."

Section 4. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts, thereof, are in conflict herewith.

Section 5. If any section, subsection, clause, phrase or provision of this Ordinance is, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 6. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 7. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6 (h) of the Steamboat Springs Home Rule Charter.

Section 8. A public hearing on this ordinance shall be held on _____, 2011, at 5:00 P.M. in the Citizens Hall meeting room, Centennial Hall, Steamboat Springs, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 12

CITY COUNCIL COMMUNICATION FORM

FROM: Seth Lorson, City Planner (Ext. 280)
Tyler Gibbs, AIA, Director of Planning and Community Development
(Ext. 244)

THROUGH: Jon Roberts, City Manager, (Ext. 228)

DATE: May 17, 2011

ITEM: Elimination of '10% Rule'.

NEXT STEP: If City Council approves the first reading, the second reading will be heard on June 7, 2011.

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

PROJECT NAME: 10% Rule - #TXT-10-09

PETITION: Approval of the elimination of the '10% Rule', CDC Sec. 26-184 (b) (3).

LOCATION: All lots that are twice the minimum lot size for the zone district and if divided will be more than 10% smaller than the area's prevailing lot size (average for subdivision or lots within a 300 foot perimeter.)

APPLICANT: City of Steamboat Springs
124 10th Street
Steamboat Springs, CO 80487

PC ACTION: Planning Commission voted to approve on April 28, 2011; Vote: 4-0; Voting for motion to approve: Hanlen, Robbins, Meyer, and Brookshire.

EXECUTIVE SUMMARY:

With the adoption of the new CDC in 2001, subdivision regulations were established to limit the ability of existing platted residential lots to be further subdivided to a lot size that was out of character with the prevailing lot size in the subdivision. One such regulation, commonly referred to as the “10% rule” has effectively prohibited the subdivision of residential lots that have more than twice the minimum lot size for the zone district in which the lot is located. This regulation is in addition to minimum lot sizes and other subdivision regulations such as minimum street frontage and minimum usable lot area (which is restricted by site constraints such as >30% slope and unstable slopes, wetlands, and easements). The origin of this regulation stems from a last minute inclusion into the revised CDC in 2001.

In light of the recent discussions surrounding the desirability of increased density within the City of Steamboat Springs, revisiting the 10% rule has been established as a priority for the Planning Commission and the City Council. The City of Steamboat Springs has approximately 760 lots with a lot size that is more than twice the minimum lot size established in the underlying zone district. Approximately 503 of these lots are affected by slopes greater than 30%, leaving 257 lots susceptible to the 10% rule. (Please note that these are approximate calculations and each individual lot would have to be analyzed to get more precise data.) Additional private regulations may also preclude the subdivision of these lots. If the 10% rule were eliminated, these lots may be further subdivided provided that they meet all other subdivision regulations, including but not limited to minimum street frontage and minimum usable lot area. Please see that attached map for the locations of the referenced lots.

Planning Commission Discussion:

None.

Public Comment:

None.

Recommended Motion:

Planning Commission recommends approval of CDC Text Amendment, TXT-10-09, to eliminate Section 26-184 (b) (3) *No lot shall be further subdivided where the subdivision will result in any lot that is more than ten (10) percent smaller than the average size of the lots within the subdivision, or the average size of all lots located partially or entirely within three hundred (300) feet, whichever is more restrictive.*

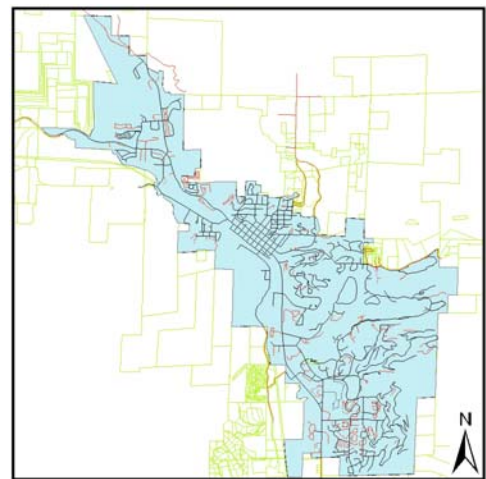
List of attachments:

- Attachment 1. – PC Staff Report TXT-10-09 and attachments, April 28, 2011
- Attachment 2. – Draft Planning Commission Minutes for April 28, 2011



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT STAFF REPORT

PLANNING COMMISSION AGENDA ITEM # 2	
Project Name:	10% Rule - #TXT-10-09
Prepared By:	Seth Lorson, City Planner (Ext. 280)
Through:	Tyler Gibbs, Director of Planning and Community Development (Ext. 224)
Planning Commission (PC):	April 28, 2011
City Council (CC):	1 st Reading: May 17, 2011 2 nd Reading: June 7, 2011
Request:	Text Amendment to the CDC to eliminate Section 26-184 (b) (3) <i>No lot shall be further subdivided where the subdivision will result in any lot that is more than ten (10) percent smaller than the average size of the lots within the subdivision, or the average size of all lots located partially or entirely within three hundred (300) feet, whichever is more restrictive; also known as the 10% Rule.</i>



Staff Report - Table of Contents		
Section		Pg
I.	Staff Analysis Summary	2-2
II.	Background Information	2-2
III.	Proposal	2-2
IV.	Code Analysis	2-3
V.	Discussion	2-4
VI.	Staff Findings and Conditions	2-4
VII.	Attachments	2-4

I. COMMUNITY DEVELOPMENT CODE (CDC) – STAFF ANALYSIS SUMMARY

CDC - Section 26-61(D): Criteria for approval. Approval of the amendment shall be granted only if it appears by clear and convincing evidence presented during the public hearing before planning commission or city council that the following conditions exist:

Subsection	CONSISTENT			NOTES
	Yes	No	NA	
1) Conformity with the community plan.	<input checked="" type="checkbox"/>			
2) Error or goal/objective.	<input checked="" type="checkbox"/>			
3) Public safety	<input checked="" type="checkbox"/>			

Staff Finding: Staff finds that the proposed Community Development Code Text Amendment, #TXT-10-09, to eliminate Section 26-184 (b) (3) *No lot shall be further subdivided where the subdivision will result in any lot that is more than ten (10) percent smaller than the average size of the lots within the subdivision, or the average size of all lots located partially or entirely within three hundred (300) feet, whichever is more restrictive,* is consistent with the criteria for approval per CDC Sec. 26-61(D).

II. BACKGROUND INFORMATION

With the adoption of the new CDC in 2001, subdivision regulations were established to limit the ability of existing platted residential lots to be further subdivided to a lot size that was out of character with the prevailing lot size in the subdivision. One such regulation, commonly referred to as the “10% rule” has effectively prohibited the subdivision of residential lots that have more than twice the minimum lot size for the zone district in which the lot is located. This regulation is in addition to minimum lot sizes and other subdivision regulations such as minimum street frontage and minimum usable lot area (which is restricted by site constraints such as >30% slope and unstable slopes, wetlands, and easements). The origin of this regulation stems from a last minute inclusion into the revised CDC in 2001.

III. PROPOSAL

Proposed changes to the Community Development Code:

Section 26-184. Design standards for residential subdivisions. (b) *Lots. ~~(3) No lot shall be further subdivided where the subdivision will result in any lot that is more than ten (10) percent smaller than the average size of the lots within the subdivision, or the average size of all lots located partially or entirely within three hundred (300) feet, whichever is more restrictive.~~*

IV. CODE ANALYSIS:

CDC Sec. 26-61. CDC text amendments.

(d) *Criteria for approval.* In considering any application for amendment to the CDC, the following criteria shall govern unless otherwise expressly required by the CDC. Approval of the amendment shall be granted only if it appears by clear and convincing evidence presented during the public hearing before planning commission or city council that the following conditions exist:

- (1) *Conformance with the community plan.* The amendment to the CDC will substantially conform with and further the community plan's preferred direction and policies.

*Staff Analysis: **Consistent:*** The proposed CDC Text Amendment is consistent with the following Steamboat Springs Area Community Plan goals:

- *The Vision: Concentrate Urban and Infill Development*
- *Goal LU-1: Our community will promote a functional, compact, and mixed-use pattern that integrates and balances residential and non-residential land uses.*
- *Goal LU-2: Our community supports infill and redevelopment of core areas.*
- *Goal GM-1: Steamboat Springs will have a compact land use pattern within a well-defined boundary.*

- (2) *Error or goal/objective.* The amendment to the CDC will correct an error, or will further a public goal or objective.

*Staff Analysis: **Consistent:*** The proposed CDC Text Amendment will further the public goal of promoting infill development.

- (3) *Public safety.* The amendment to the CDC is necessary to ensure public health, safety and welfare.

*Staff Analysis: **Consistent:*** The proposed CDC Text Amendments is necessary to ensure the public health, safety and welfare by furthering the goals and policies of the Steamboat Springs Area Community Plan; specifically promoting more compact development that supports walking, bicycling, and transit, all of which are aspects of a healthier more sustainable community.

V. DISCUSSION

In light of the recent discussions surrounding the desirability of increased density within the City of Steamboat Springs, revisiting the 10% rule has been established as a priority for the Planning Commission and the City Council. The City of Steamboat Springs has approximately 760 lots with a lot size that is more than twice the minimum lot size established in the underlying zone district. Approximately 503 of these lots are affected by slopes greater than 30%, leaving 257 lots susceptible to the 10% rule. (Please note that these are approximate calculations and each individual lot would have to be analyzed to get more precise data.) Additional private regulations may also preclude the subdivision of these lots. If the 10% rule were eliminated, these lots may be further subdivided provided that they meet all other subdivision regulations, including but not limited to minimum street frontage and minimum usable lot area. Please see that attached map for the locations of the referenced lots.

VI. STAFF FINDING & CONDITIONS

Finding

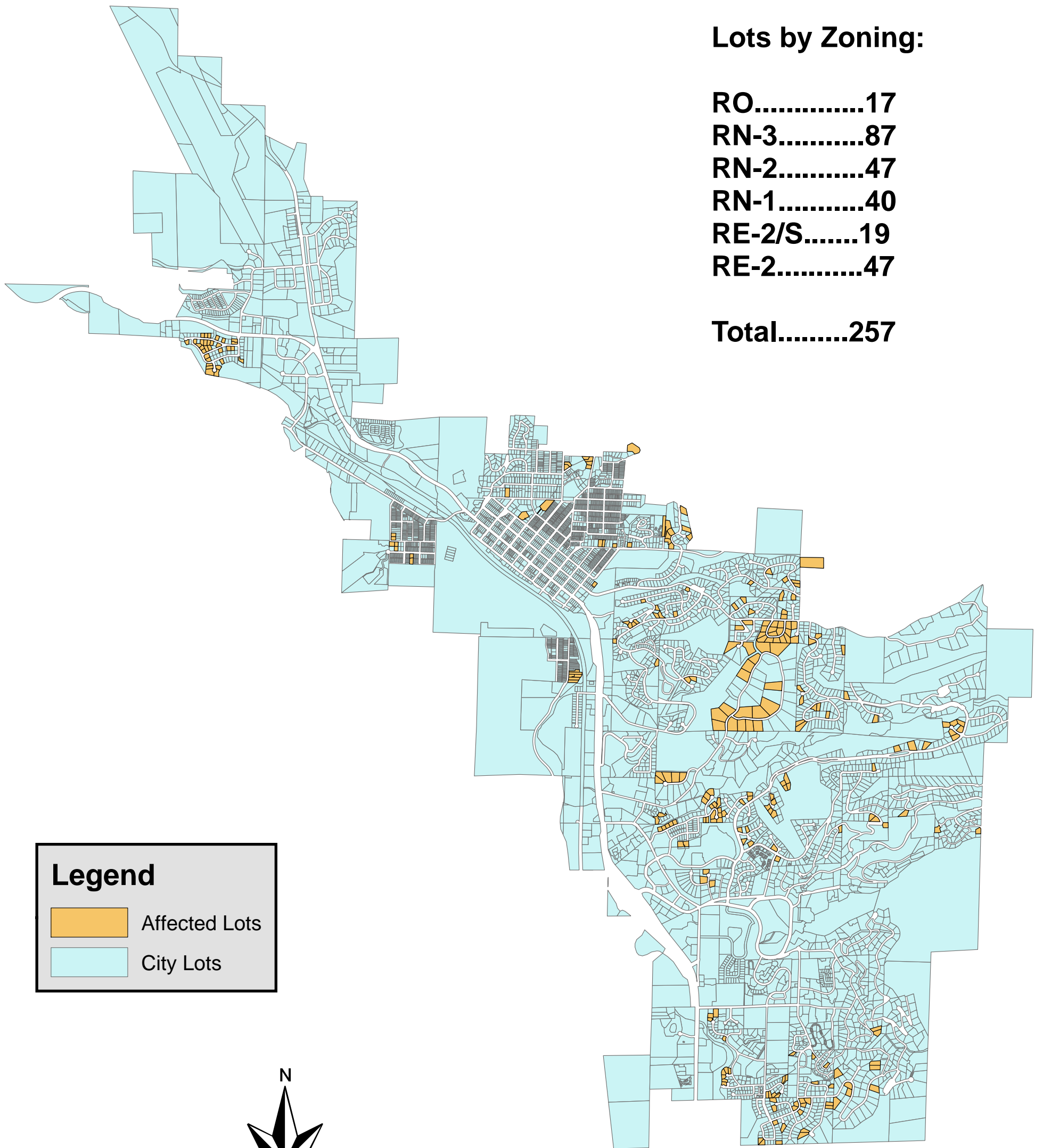
Staff finds that the proposed Community Development Code Text Amendment, #TXT-10-09, to eliminate Section 26-184 (b) (3) *No lot shall be further subdivided where the subdivision will result in any lot that is more than ten (10) percent smaller than the average size of the lots within the subdivision, or the average size of all lots located partially or entirely within three hundred (300) feet, whichever is more restrictive*, is consistent with the criteria for approval per CDC Sec. 26-61(D).

VII. LIST OF ATTACHMENTS

Attachment 1: Map: 10% Rule Analysis – 2x minimum lot size minus >30% slope

City of Steamboat Springs 10% Rule Analysis



Lots with twice the minimum lots size, excluding slopes greater than 30%

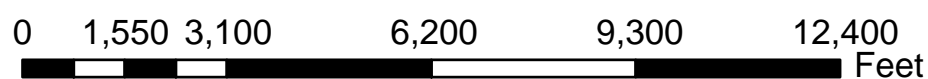
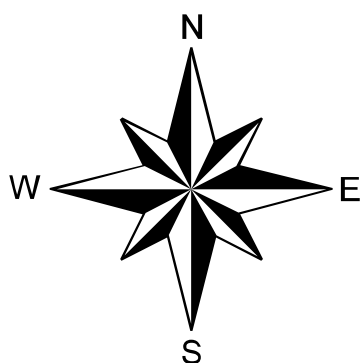


Lots by Zoning:

RO.....	17
RN-3.....	87
RN-2.....	47
RN-1.....	40
RE-2/S.....	19
RE-2.....	47
Total.....	257

Legend

-  Affected Lots
-  City Lots



4/28/11

DRAFT

Text Amendment to CDC - 10% Rule #TXT-11-08 A text amendment to eliminate the 10 Percent Rule: No lot shall be further subdivided where the subdivision will result in any lot that is more than ten (10) percent smaller than the average size of the lots within the subdivision, or the average size of all lots located partially or entirely within three hundred (300) feet, whichever is more restrictive. Whereas all zone districts in the city have minimum lot size and many of the lots that are susceptible to this regulation are restricted to subdivide by private covenants and site constraints, the regulation is unnecessarily restrictive

Discussion on this agenda item started at approximately 5:33 p.m.

STAFF PRESENTATION

Seth Lorson –

This text amendment is going to eliminate the 10% rule. I want to note that this regulation is in addition to a number of other regulations for subdivisions in the subdivision standards. Minimum lot size and minimum usable lot area, it is staff's recommendation that we eliminate this entirely.

FINAL STAFF COMMENTS

Seth Lorson –

I want to note that for a release to the public we did do a media release. There are no surrounding property owners to this amendment. It would have been the entire community.

Commissioner Meyer –

You had no phone calls from the public?

Seth Lorson –

No.

RECOMMENDED MOTION

Staff finds that the proposed Community Development Code Text Amendment, #TXT-10-09, to eliminate Section 26-184 (b) (3) *No lot shall be further subdivided where the subdivision will result in any lot that is more than ten (10) percent smaller than the average size of the lots within the subdivision, or the average size of all lots located partially or entirely within three hundred (300) feet, whichever is more restrictive*, is consistent with the criteria for approval per CDC Sec. 26-61(D).

MOTION

Commissioner Hanlen moved to approve TXT-10-09 and Commissioner Robbins seconded the motion.

VOTE

Vote: 4-0

Voting for approval of motion to approve: Brookshire, Hanlen, Meyer and Robbins

Absent: Lacy and Levy

Two positions vacant

Discussion on this agenda item ended at approximately 5:35 p.m.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE TO ELIMINATE COMMUNITY DEVELOPMENT CODE SECTION 26-184 (B) (3), ALSO KNOWN AS THE "10% RULE".

WHEREAS, the City Council adopted the revised Community Development Code as Ordinance #1802 on July 23, 2001; and

WHEREAS, the City of Steamboat Springs committed to a regular, ongoing review of the Community Development Code so that the provisions contained therein are relevant and applicable to the community at any given point in time; and

WHEREAS, the 10% Rule restricts subdividing lots that will result in any lot that is more than 10% smaller than the average size of the lots within the subdivision, or the average size of all lots located within 300 feet; and

WHEREAS, the City of Steamboat Springs has determined appropriate lot sizes by establishing minimum lot sizes in each zone district; and

WHEREAS, the City Council has found that the 10% Rule is inconsistent with the desire for increased infill opportunities as expressed in the Steamboat Springs Area Community Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. The Steamboat Springs Community Development Code (CDC) shall be amended as follows:

~~CDC Sec. 26-184 (b) (3) No lot shall be further subdivided where the subdivision will result in any lot that is more than ten (10) percent smaller than the average size of the lots within the subdivision, or the average size of all lots located partially or entirely within three hundred (300) feet, whichever is more restrictive.~~

Section 2. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts, thereof, are in conflict herewith.

Section 3. If any section, subsection, clause, phrase or provision of this Ordinance is, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 4. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 5. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6 (h) of the Steamboat Springs Home Rule Charter.

INTRODUCED, READ, AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 13

CITY COUNCIL COMMUNICATION FORM

FROM: Philo Shelton, Public Works Director (Ext. 204)
Janet Hruby, City Engineer (Ext. 245)

THROUGH: Jon Roberts, City Manager (Ext. 228)

DATE: May 17, 2011

RE: 2nd Reading of Ordinance Revising City Code for Complete Streets

NEXT STEP: Update the Multi-Modal Master Plan

I. REQUEST OR ISSUE:

The Steamboat Area Comprehensive Plan includes a vision to develop a comprehensive, integrated transportation system including roads, bicycles, pedestrians, and transit. The proposed ordinance executes this vision by revising the City code to require routine accommodation of multiple modes in the design and construction of public infrastructure and private streets and creating a Multi-Mode Master Plan. The next step is to update the newly created Multi-Modal Master Plan to streamline existing plans and add the bicycle and transit components.

RECOMMENDED ACTION:

- Approve the ordinance revising the City Code to include complete streets requirements (Attachment 1) and adopt the Multi-Mode Master Plan (Attachment 2).
- Direct staff to update the Multi-Mode Master Plan, coordinating with the Area Community Plan Update scoping

III. FISCAL IMPACTS:

Proposed Expenditure: none
Funding Source: none

For the majority projects, additional costs are not anticipated with implementation of the code changes. Most projects have already been including complete streets elements based on various sections of the existing code, engineering standards, planning standards, or federal/state standards. For some public projects there may be an additional cost as they are not all currently required to construct pedestrian, bicycle, and transit improvements with a project.

IV. BACKGROUND INFORMATION:

- September 7, 2010: Request by the Steamboat Springs Bike Town USA Initiative for complete streets ordinance, staff direction by City Council to prepare ordinance
- December 7, 2010: City Council support for ordinance (work session)
- January 25, 2011, 2010, Planning Commission support for ordinance (work session)
- March 22, 2011: Parks and Recreation Commission support for ordinance
- April 14, 2011 Planning Commission approves ordinance 5 – 0 with recommendation to move forward with Multi-Mode Master Plan update to create one master plan for multi-modes that combines the open space and trails master plan, the sidewalk master plan, a new bike master plan component, and a new transit plan component, and have a draft of that new plan presented in December 2011 with a future adoption in February 2012.

What is a Complete Street? A complete street is a street designed to provide safe, comfortable, and convenient travel for motorists, pedestrians, bicyclists, and transit riders. Complete streets integrate multi-mode design components appropriate for the context, function, and volume of the transportation facility.

What does this ordinance change? This complete streets ordinance is not a completely new set of requirements since Steamboat already has transit, bike and sidewalk requirements in various sections of the current code. This ordinance moves the transit, sidewalk, and bike requirements into one section (26-155). It revises the code language to remove specific engineering design requirements and instead reference the Engineering standards to allow more flexibility at the design level. The ordinance adds new language defining general complete streets requirements, identifying when complete streets requirements apply, and listing what can be exempted.

The ordinance also creates a Multi-Mode Master Plan combining the information from the various complete streets related master plans in one location. The Master Plan provides an important tool for coordination with land use, density, and infill analysis of the Area Community Plan.

What are other government entities doing?

- Federal: US DOT adopted a policy to incorporate safe and convenient walking and bicycling facilities into transportation projects and to encourage states and local governments to adopt similar policies.
- State: 13 states have complete streets ordinances including Colorado.
- Other Jurisdictions: Over 150 jurisdictions nationwide have complete streets programs

What is Steamboat doing now? Steamboat master plans have visions, policies, and goals as well as engineering standards that reference providing complete streets elements. Many of these items overlap and some conflict. Without a clear complete streets requirement in the code, items are not implemented, are negotiated during the development process or are not included in capital projects.

V. LEGAL ISSUES:

Legal staff reviewed the ordinance. No legal issues were identified.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

No conflicts or environmental issues were identified with the ordinance.

VII. SUMMARY AND ALTERNATIVES:

Many government agencies, including other resort municipalities, have already acknowledged the benefits of constructing infrastructure for vehicles, bicycles, pedestrians, and transit by adopting complete streets requirements. The League of American Cyclists recommends adopting a complete streets ordinance to help maintain and increase the City's bicycle friendly award status. The Board of Realtors, Kaiser Permanente, and other national organizations support complete streets for all the health, economic, environment, and lifestyle benefits they provide. Adoption of the complete streets ordinance will take the transportation visions in Steamboat's Area Community Plan and put them into action by creating specific multi-mode requirements.

Alternatives:

- Approve the 2nd Reading of the Ordinance and Multi-Mode Master Plan
- Deny the 2nd Reading of the Ordinance and Multi-Mode Master Plan
- Approve the 2nd Reading of the Ordinance and Multi-Mode Master Plan with comments

Next Steps:

The approval of the Complete Streets Ordinance and Multi-Mode Master Plan creates a framework to implement the multi-mode transportation network vision of the Area Community Plan. After approval there will be specific Complete Streets Code language and one universal map, but there are still multiple plans with differing visions and goals and no specific bike or transit components. The next step needed is to create one master plan for multi-modes that combines the open space and trails master plan, the sidewalk master plan, a new bike master plan component, and a new transit plan component. The update and integration of the Multi-Mode Master Plan should be coordinated with other components in the Area Community Plan such as land use, density, community housing, natural areas, etc if those elements change. Final scoping for the Area Community Plan is estimated

for late June, at which time staff will identify a scope, schedule, and cost for both the Area Community Plan Update and the Multi-Mode Master Plan Update. Depending on the identified scope and schedule, the work will be done in-house or included in the 2012 budget.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 20 AND 26 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE TO INCLUDE REQUIREMENTS FOR COMPLETE STREETS, PROVIDING AN EFFECTIVE DATE, AND REPEALING ALL CONFLICTING ORDINANCES.

WHEREAS, the City of Steamboat Springs recognizes the need to accommodate all modes of travel on City streets including pedestrian, bicycle, transit, and vehicle; and

WHEREAS, the United States Department of Transportation (DOT) issued a Policy Statement on March 11, 2010 identifying the DOT policy to incorporate safe and convenient walking and bicycling facilities into transportation projects and encouraging state and local governments to adopt similar policy statements indicating their commitment to accommodating bicyclists and pedestrians as an integral element of the transportation system; and

WHEREAS, the State of Colorado adopted CRS 43-1-120 in July 2010 requiring that transportation infrastructure accommodates bicycle and pedestrian use of highways in a manner that is safe and reliable for all highway users and that the needs of bicyclists and pedestrians shall be included in the planning, design, and operation of transportation facilities as a matter of routine; and

WHEREAS, the City of Steamboat Springs Area Community Plan encourages construction of multi-mode infrastructure to help alleviate future traffic congestion; and

WHEREAS, the City of Steamboat Springs seeks to meet the transportation needs of its citizens by providing road networks that are safer, healthier, more livable, and welcoming; and

WHEREAS, the City of Steamboat Springs recognizes that addressing all users during the design process is more cost effective in the long term and creates an integrated, well connected transportation network; and

WHEREAS, the City of Steamboat Springs wishes to promote and facilitate the increased use of non-motorized modes of transportation to help maximize the capacity of our network; and

WHEREAS, the City of Steamboat Springs has obtained a silver Bicycle Friendly designation from the League of American Bicyclists and seeks to increase the award level; and

WHEREAS, walking, bicycling, and transit are affordable forms of transportation that are less reliant on fossil fuels; and

WHEREAS, having a multi-mode policy may be required or beneficial to receive state or federal funding for City projects.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. Sections, 20-1, 26-1, 26-31, 26-36, 26-140, 26-155, 26-156, and 20-183, of the City of Steamboat Springs Revised Municipal Code are hereby revised to read as described in Exhibit A to this ordinance.

Section 2. The City Council hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety.

Section 3. That pursuant to Section 7-11 of the Charter of the City of Steamboat Springs, Colorado, the second publication of this ordinance may be by reference, utilizing the ordinance title.

Section 4. This ordinance shall take effect five days after publication following second reading.

Section 5. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the ____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this ____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

Section 26-155. Complete Streets

- a) *Purpose.* The purpose of this section is to ensure that all streets accommodate the following modes of travel: pedestrian, bicycle, transit, and vehicle. All streets shall be designed and constructed as multi-mode facilities. These standards are developed to improve the ability of local residents and visitors to move about the community safely and efficiently, and without dependence upon automobiles.
- b) *Applicability.* This section shall be applicable to all development within the corporate limits of the city.
- c) *Definitions.* For the purpose of this Section a multi-mode facility is infrastructure designed for the following modes of travel: vehicle, pedestrian, bicycle, and transit travel. Typical multi-mode facilities include streets, sidewalks, trails, bike facilities (shoulder, bike lane, etc), or transit facilities (bus stop, bus pullout, bus shelter, etc).
- d) *Exemptions.* The Public Works Director and Director may approve exemptions to the general standards in the following circumstances. Approval of the exemption may occur concurrently with a development approval, and is not considered a variance to a development standard unless cash in lieu is proposed per Section 26-156.
 - 1.) A user by law is prohibited from using the facility.
 - 2.) The width of the existing right-of-way or easement does not allow for the accommodation of all users, the developer does not own the land where an additional property would be required, and the developer has not been able to obtain the property from another property owner. In this case alternatives consistent with engineering standards shall be explored to accommodate the most users within the space available. Additionally the design shall include provisions for future construction of the exempted facilities.
 - 3.) The cost of including accommodations for all modes would be disproportionate to the need, particularly if alternative facilities are available within a reasonable distance as determined by the Director.
 - 4.) There is no current or future need for a mode projected.
 - 5.) Application of complete streets principles is unnecessary or inappropriate because it would be contrary to public safety.
 - 6.) The project is for routine maintenance and not new improvements; except where additional mode infrastructure is identified as needed and can be accommodated for nominal additional cost. Routine maintenance includes projects such as utility and storm system upgrades, replacement, or maintenance; chip sealing; overlays of 2 inches or less; potholing and patching; crack filling; and traffic signal maintenance.
 - 7.) Existing grades do not feasibly permit the design and construction of multi-mode facilities in accordance with ADA requirements; consistent with the exemption allowed by the ADA rules.
 - 8.) A single family home or a duplex constructed on a lot within an approved subdivision is not required to upgrade an existing street.
 - 9.) A final plat that meets the requirements of a lot line adjustment, lot line elimination, and condominium/townhome plat of an existing building unless there is an existing infrastructure requirement, subdivision improvements agreement, or development agreement for the property would not trigger the requirement for construction of multi-mode infrastructure.
- e) *Phasing.* Multi-mode facilities shall be installed concurrent with the construction of the associated development. Any phasing of multi-mode facilities shall be according to Section 26-141.

- f) *Design Standards and Specifications*; Design and construction requirements for multi-mode facilities shall be identified by the Public Works Director and published in the Engineering Standards and Specifications. All multi-mode infrastructure shall be constructed in accordance with these standards and specifications.
- g) *General Standards for all zone districts, public rights-of-way, and private streets.*
- 1.) Public right-of-way and private streets shall accommodate pedestrian, bicycle, transit, and vehicle by integrating design components appropriate to each travel mode considering the context, function, and volume of the transportation facility.
 - 2.) The design and construction of new projects or redevelopment projects shall address existing and likely future (20-year) demand for multi-mode facilities as identified by the traffic analysis.
 - 3.) The design shall include multi-mode facilities not only along corridors, but also crossing corridors and at intersections in a manner that is safe, accessible, and convenient.
 - 4.) Multi-mode facilities shall be provided in accordance with the CDC, the Multi-Mode Master Plan, the Steamboat Springs Area Community Plan, and other applicable Master Plans as identified by the Director.
 - 5.) For areas proposed to develop that are not included in existing Master Plans, the applicant shall meet with the Director to identify appropriate extensions of the Master Plan facilities from the adopted plan boundaries to the subject site.
 - 6.) Each development shall connect multi-mode facilities to adjacent properties to continue an interconnected multi-mode circulation system through the development site.
 - 7.) Each development shall provide multi-mode facilities between the development and any adjacent transit facility.
 - 8.) Multi-mode facilities must maintain the minimum width identified in the Engineering Standards free and clear of all obstructions to user circulation. If off-street structures or storage of any kind (such as trash receptacles, benches, planters, or other appurtenances) are proposed to be within an off-street multi-mode facility, the facility must be built to a wider standard as approved by the Director of Public Works to accommodate those items.
- h) *Street Standards for all zone districts, public rights-of-way, and private streets.* Streets shall be provided as required in municipal code Section 20, the Multi-Mode Master Plan, the Community Development Code, and the Engineering Standards.
- i) *Sidewalk Standards for all zone districts, public rights of way, and private streets.*
- 1.) Sidewalks are to be constructed on both sides of any street that has business frontage on both sides and on at least one side of all other streets.
 - 2.) Sidewalk widths shall be as established in the City's Engineering Standards and shall generally include the following minimums:
 - (a) Sixteen (16) feet on Lincoln Avenue (from 3rd to 13th Streets)
 - (b) Eight (8) feet on collector and arterial streets
 1. Oak Street is an exception identified as six(6) feet
 - (c) Eight (8) feet along commercial properties not along Lincoln or Oak Street which are covered under 2(a) and 2(b)
 - (d) Six (6) feet on all other streets
 - (e) Four (4) feet on internal private sidewalks required for access or circulation

- j) *Additional Sidewalk Standards for Commercial, multi-family and Gondola zone district developments.*
 - 1.) A sidewalk system shall be provided to connect each individual building to any adjacent perimeter sidewalk, trail, or pedestrian pathway.
 - 2.) The site's sidewalk system shall provide access to transit facilities, site public gathering locations, and major site amenities.
 - 3.) Any parking lot with fifty (50) or more spaces shall provide a sidewalk between the parking lot and the front of the building that the parking lot serves.

- k) *Zone district specific streetscape standards.*
 - 1.) All development and redevelopment in any zone district within the area covered by the Downtown Streetscape Master Plan shall provide a streetscape in accordance with the Downtown Streetscape Master Plan for sites adjacent to Lincoln Avenue, Yampa Street, Oak Street, and 3rd through 13th Street between Oak Street and Yampa Street.
 - 2.) All development and redevelopment in any zone district within the area covered by the Mountain Base Area shall follow the requirements of the Mountain Base Area Design Standards.

- l) *Bicycle Facility standards for all zone districts, public rights-of-way, and private streets.* Bike lanes and other bike facilities shall be constructed as identified in the Multi-Mode Master Plan and the City Engineering Standards.

- m) *Bicycle rack standards for all zone districts, public rights-of-way, and private streets.*
 - 1.) General bike rack design requirements shall be identified by the Director of Public Works in cooperation with the Director and included in the Engineering Standards and Specifications.
 - 2.) For all commercial, multi-family and mixed-use developments in zone Districts CO, CY, and CN; bike racks will be provided within reasonable proximity and within sight to building entrances at a ratio of one rack for every five (5) required vehicle parking spaces.
 - 3.) For all commercial, multi-family and mixed-use developments located in all zone districts other than CO, CY and CN bike racks will be provided within reasonable proximity and within sight to building entrances at a ratio of one rack for every ten (10) required vehicle parking spaces.

- n) *Transit Facility standards for all zone districts, public rights-of-way, and private streets,* Bus stops, bus shelters, bus pull outs, or other transit facilities shall be constructed in conformance with the Multi-Mode Master Plan.

- o) *Trail standards for all zone districts, public rights-of-way, and private streets.* Trails shall be constructed in conformance with the Multi-Mode Master Plan and the open space requirements in CDC Section 26-184(d), 26-185(d), and 26-187 (f).

Section 26-156 *Cash-in-lieu.* An applicant may make a cash payment in lieu of constructing a sidewalk, bike, or transit facility where City Council determines that application of the multi-mode requirement would be impractical to construct in conjunction with construction of the development, or inconsistent with the intent of the CDC. The option for cash-in-lieu will be considered a variance to a development standard and must meet subsection 26-65(d) (8) a, b, c and e, excepting d, superior development. The required amount of cash-in-lieu payment will be the cost of the required improvements with an additional ten (10) percent administrative fee. The

cost of the required improvements shall be determined by cost estimates provided by the developer in the form of an engineer's estimate or construction bids. All cost estimates are subject to review and approval by the Director and Director of Public Works. Upon rejection of any estimate, the Director or Director Public Works may obtain an estimate from a licensed engineer in the state, which shall be binding upon the developer for purposes of determining the cost of the required improvements. All monies collected shall be used by the city only for the installation of public multi-mode facilities.

Sec. 20-1. - Establishment of Standards and Specifications.

- 1.) Preparation of Standards and Specifications: Standards and specifications and outlining requirements for the design, construction, repair, and inspection and testing of streets, sidewalks, trails, transit facilities, bike facilities, stormwater systems, curbs and related public improvements shall be as established by the Director of Public works and periodically updated.
- 2.) Applicability. All public and private infrastructure shall be constructed in accordance with the standards and specifications established by the Director of Public Works

~~Sec. 20-36.—Construction specifications.~~

~~(a)The sidewalks on all streets within the city shall conform with all city sidewalk specifications on file in the office of the public works department. All sidewalks constructed, reconstructed or repaired shall conform with and to such specifications.~~

~~(b)Subsection (a) of this section shall extend and be applicable to new construction, reconstruction and repair of existing sidewalks, but shall not be construed or deemed to require reconstruction of sidewalks constructed in accordance with prior ordinances of the city.~~

~~(Code 1975, §§ 12.08.030, 12.08.040)~~

~~Secs. 20-376—20-55. - Reserved.~~

FOOTNOTE(S):

⁽⁵⁵⁾ Cross reference— Sidewalk improvements, § 13-141 et seq. (Back)

Reference: Requirements for development of sidewalks and other multi-modal facilities are included in Section 26-155

Sec. 26-31. (b)Administration, adoption, and revisions to Community Plan and community plan elements. The Community Plan shall be administered by the department of planning services, and reviewed by the planning eCommission, which shall make recommendations to the Director and the City Council concerning content, interpretations, application of, and

amendments to the ~~C~~community ~~P~~plan. Elements of the community plan, including but not limited to, the Mountain Town Subarea Plan, ~~Mobility and Circulation Plan~~~~Multi-Mode Master Plan~~, and West of Steamboat Springs Area Plan, shall be adopted and/or amended by resolution of the city council after recommendations from the ~~P~~planning ~~C~~ommission and other applicable boards or commissions. The ~~C~~city ~~C~~ouncil may jointly adopt elements of the community plan with the ~~e~~County ~~b~~Board of ~~e~~Commissioners. Procedures and requirements for joint adoption and/or joint amendment shall be defined in an intergovernmental agreement to the extent that the procedures and requirements do not conflict with the provisions of this section

Sec. 26-1. - (e)Purpose. The purpose of this CDC is to set forth a unified regulatory program for development in the city that will implement the preferred direction and policies of the Steamboat Springs Area Community Plan, Mountain Town Sub-Area Plan, West of Steamboat Springs Area Plan, Airport Layout Plan, the ~~Mobility and Circulation Plan~~~~Multi-Mode Master Plan~~, and other applicable area plans. In addition, it is the purpose of the CDC to achieve the following:

26-184 (d) 3.d.The public facility components of the ~~a~~Area ~~C~~community ~~P~~plan, the ~~mobility and circulation plan~~~~Multi-Mode Master Plan~~, and any other city plans adopted by ordinance or resolution; and

~~Sec. 26-140. - Sidewalks, trails, walkways and bicycle facilities.~~

~~-(a)Purpose. The purpose of these standards is to improve the ability of local residents and visitors to move about the community safely and efficiently, and without dependence upon the automobile.~~

~~-(b)Applicability. All development in the city shall meet the following standards unless specifically exempted in this CDC.~~

~~-(c)Standards for all zone districts. The pedestrian and bicycle facilities described in this section shall be required to be installed concurrent with the construction of any development that requires approval of a final development plan or a variance, unless such a requirement would be inconsistent with state or federal law. All requirements for construction or dedication of public trails shall be roughly proportional to the impacts of the project being proposed. Any discretionary decision to require construction or dedication of a trail shall require an individual determination that such requirements are roughly proportional to the impacts of the proposed project.~~

~~(1)Sidewalks and trails.~~

~~a.All properties.~~

~~1.Sidewalks and trails shall be provided in accordance with city street standards, the mobility and circulation plan and/or the Mountain Town Sub-Area Plan.~~

~~2.The sidewalk improvements required by the Mobility and Circulation Plan and/or the Mountain Town Sub-Area Plan shall be indicated on any development plan or final development plan required for the subject site and shall be constructed concurrent with the other improvements shown on the approved final development plan.~~

~~3. Except as otherwise stated within this section, all sidewalks shall be constructed to standards currently on file with the director of public works. Sidewalks are to be constructed of concrete unless otherwise determined by the director of public works.~~

~~4. Sidewalks built at the above stated minimum widths must maintain an area of six (6) feet in width that is free and clear of all obstructions to pedestrian circulation including trash receptacles, benches, and planters. If any structures or storage of any kind are proposed to be within the sidewalk area, the sidewalks must be built to a wider or thicker standard to accommodate said structures.~~

~~5. Sidewalks are to be detached from the street pavement unless otherwise approved by the director of public works.~~

~~6. Sidewalks are to be constructed on both sides of any roadway that has business frontage on both sides and on at least one side of all other roadways.~~

~~7. Within pedestrian districts identified by the Mobility and Circulation Plan, sidewalks shall be at least eight (8) feet wide, with the following exceptions:~~

~~A. Sixteen (16) feet on Lincoln Avenue (from 3rd to 13th Streets).~~

~~B. Six (6) feet on Oak Street.~~

~~C. Six (6) feet on Yampa Street.~~

~~D. Eight (8) feet in all other commercial areas.~~

~~E. Six (6) feet on all other roadways (noncommercial).~~

~~8. Outside of the pedestrian districts identified by the mobility and circulation plan, sidewalks shall be constructed to the following widths:~~

~~A. Six (6) feet on all local residential roads (public or private), including interior roadways (i.e. condo/townhouse developments).~~

~~B. Eight (8) feet on all collector and arterial roads (any roadway classification higher than local).~~

~~C. Eight (8) feet on all commercial properties.~~

~~b. Commercial, multi-family and Gondola zone district developments.~~

~~1. Sidewalks shall be provided to connect each individual building to any adjacent perimeter sidewalk.~~

~~2. Each development shall provide pedestrian connections to adjacent properties, where possible, forming an interconnected pedestrian circulation system.~~

~~3. Such circulation system shall provide access to transit facilities, public gathering locations, and major amenities whenever possible.~~

~~4. Sidewalks shall be provided between each individual establishment, any adjacent perimeter sidewalk, and any pedestrian pathway.~~

~~5. Sidewalks shall be provided between the development and any adjacent transit facility.~~

~~6. Any parking lot with fifty (50) or more spaces shall provide a sidewalk between the parking lot and the front of the building that the parking lot serves.~~

~~7. Pedestrian access and/or direction to access across U.S. Highway 40 shall be considered and addressed.~~

~~(2) Bicycle facilities in a fixed and permanent location.~~

~~a. All commercial, multi-family and mixed-use developments located in the CO, CY and CN zone districts.~~

~~1. Bike racks will be provided within reasonable proximity and within sight to building entrances at a ratio of one rack for every five (5) required vehicle parking spaces.~~

~~2. Bike rack design and location will be as determined in the Steamboat Springs Downtown Streetscape Improvements Plan and by the director until such time as its adoption.~~

~~b. All commercial, multi-family and mixed-use developments located in all zone districts other than CO, CY and CN.~~

~~1. Bike racks will be provided within reasonable proximity and within sight to building entrances at a ratio of one rack for every ten (10) required vehicle parking spaces.~~

~~2. Bicycle racks shall be the inverted "U" design. This inverted "U" shall be comprised of a single tube, two-inch diameter minimum, bent to a single arc which smoothly flows into the straight post sections of the inverted "U".~~

~~3. The minimum height for the inverted "U" shall be thirty-six (36) inches from base to top of "U".~~

~~4. The exterior surface of the rack shall be non-abrasive, non-marring and durable. The coating durability implies that routine maintenance is unnecessary. Galvanized or Stainless Steel is not acceptable.~~

~~5. There shall be at least thirty (30) inches between bike racks.~~

~~6. The bike racks shall be located at least twenty-four (24) inches from a sidewalk or vehicle travel surface.~~

~~7. Alternative rack design may be approved by the director.~~

~~(d) Zone district specific standards.~~

~~(1) CO commercial Old Town zone district.~~

~~a. *Lincoln Avenue improvements.* All development and redevelopment along Lincoln Avenue shall provide pavers in accordance with the details and specifications provided in the Lincoln Avenue sidewalk standard details and chapter 20, section 20-33 of the Steamboat Springs Municipal Code.~~

~~b. *3rd through 13th Street improvements.* All development and redevelopment along numbered side streets (3rd, 4th, 5th, etc.) in the CO zone district shall provide pavers similar to the specifications provided in the Lincoln Avenue sidewalk standard details and in accordance with chapter 20, section 20-33 of the Steamboat Springs Municipal Code.~~

~~(2) *CY commercial Yampa zone district.*~~

~~a. *3rd through 13th Street improvements.* All development and redevelopment along numbered side streets (3rd, 4th, 5th, etc.) in the CY zone district shall provide pavers similar to the specifications provided in the Lincoln Avenue sidewalk standard details and in accordance with chapter 20, section 20-33 of the Steamboat Springs Municipal Code.~~

~~(3) *CN commercial neighborhood zone district.*~~

~~a. *3rd through 13th Street improvements.* All development and redevelopment along numbered side streets (3rd, 4th, 5th, etc.) in the CN zone district shall provide pavers similar to the specifications provided in the Lincoln Avenue sidewalk standard details and in accordance with chapter 20, section 20-33 of the Steamboat Springs Municipal Code.~~

~~(4) *G-2 Gondola two zone district.*~~

~~a. *Pedestrian corridors and facilities shall be provided for every development in the G-2 zone district in order to create or enhance quality pedestrian environments. Pedestrian facilities shall be included along the pedestrian corridor. These facilities may include, but are not limited to, street furnishings such as benches or sitting areas, public art, or landscape elements. The location and materials used in pedestrian facilities shall reflect or respond to those used for the construction of pedestrian corridors and connections on adjacent sites.*~~

~~-(e) *Cash in lieu.* An applicant may make a cash payment in lieu of providing sidewalk construction where city council determines that application of the sidewalk regulations would be impractical, or inconsistent with the intent of the CDC. The option for cash in lieu will be considered a variance to a development standard and must meet subsection 26-65(d)(8) a, b, c and e, excepting d, superior development. The required amount of cash in lieu payment will be the cost of the required sidewalk with an additional ten (10) percent administrative fee. The cost of the required sidewalk improvements shall be determined by cost estimates provided by the developer in the form of an engineer's estimate or construction bids. All cost estimates are subject to review and approval by the director and public works. Upon rejection of any estimate, the director or public works may obtain an estimate from a licensed engineer in the state, which shall be binding upon the developer for purposes of determining the cost of the required improvements. All monies collected shall be used by the city only for the installation of public sidewalks.~~

~~(Ord. No. 2187, § 1, 6-3-08)~~

Sec. 26-183. - Standards for all subdivisions.

(b)*Circulation.* Where the requirements of this section conflict with the city's adopted street standards, the street standards shall apply. The director shall refer questions involving the application of the street standards to the director of public works for review and recommendation.

- 1.) All streets within a subdivision shall satisfy the complete streets standards set forth in Section 26-155.
- ~~1.)~~2.) Access for emergency vehicles and emergency services shall be provided in conformance with city street standards and the Uniform-International Fire Code as adopted and amended from time to time.
- ~~2.)~~3.) All public and private streets shall be designed and constructed in conformance with city street standards as adopted and revised from time to time pursuant to Section 20. Cul-de-sacs are discouraged.
- ~~3.)~~4.) Streets and alleys shall not exceed ~~a seven (7) percent~~ grades identified in the City Road Standards and International Fire Code as adopted and amended. ~~and shall be designed in accordance with city street standards.~~
- ~~4.)~~5.) The city encourages all streets to be public and discourages private streets.
- ~~5.)~~ Sidewalks and trails shall be provided in conformance with the section ~~26-140.~~
- 6.) Street systems shall be designed with consideration of and provisions for future connections to adjacent properties.
- 7.) A street for its entire length must be either public or private. No public street shall be joined or interrupted by a section of a private street. No collector or connector street may be a private street.
- ~~8.)~~ Street intersections shall be directly aligned or be offset at least one hundred fifty (150) feet with respect to horizontal alignment. This requirement shall be measured from centerline of street to centerline of street.
- ~~9.)~~8.) Roadways Multi-mode facilities - shall be extended to the development's property lines to allow for extension of the ~~road~~ complete street system. A temporary cul-de-sac easement and surface may be ~~provided~~ required by the Public Works Director to allow for a turnaround until the multi-mode infrastructure is completed. The temporary cul-de-sac easement shall expire upon final acceptance of the necessary street multi-mode facility connection. Roadway Multi-mode facility extensions to adjoining properties shall be located in a manner that provides for extension of the street consistent with city street Engineering S standards.
- ~~10.)~~9.) Block lengths shall be a minimum of two hundred (200) feet and a maximum of six hundred sixty (660) feet. Variances to block length shall be in accordance with criteria established by the Director of Public Works in coordination with the Director and as published in the Engineering Standards.
- ~~11.)~~10.) Where a subdivision abuts an existing road or street, the development shall be designed to allow for improvements to the road and right-of-way along the length of the abutment to meet the current city street standards multi-mode requirements. The developer shall make improvements to the ~~road~~ right-of-way concerning traffic surface widening, additional right-of-way, shouldering, drainage, grading, tree removal, multi-modal facilities, and other improvements as required to offset or mitigate the anticipated traffic impacts of the subdivision.
- ~~12.)~~11.) Street signs shall be required at street intersections. Such signs shall be consistent with standard design and shall set forth the names of intersecting streets. New streets that are an extension of, or in alignment with, existing streets shall bear the names of such streets. The public works department shall order and install such signs at the expense of the developer.


~~13.)12.)~~ The developer shall install electronic railroad signals at any vehicular railroad crossing located within the subdivision and may be required to participate in installing signals at railroad crossings located outside the subdivision based upon the development's proportionate share of traffic as such crossings.

~~14.)13.)~~ Street and pedestrian lighting is required in conformance with section 26-138, lighting standards.

~~15.)14.)~~ Each subdivision is responsible for providing adequate right-of-way or easements for any required multi-modal facility within or adjacent to the subdivision.

15.) ~~Subdivision design shall be in conformance with adopted transit development plans. Each subdivision is responsible for providing adequate right of way and transit stop improvements for any transit stop that is needed primarily for the benefit of the subdivision.~~

AGENDA ITEM # 14



2011

City Of Steamboat Springs Economic Development Strategy

Our Vision:

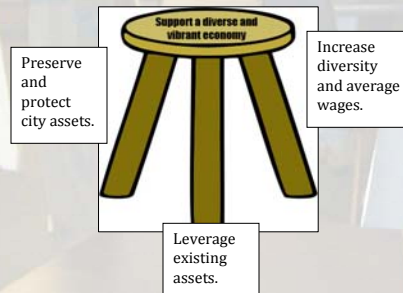
The City of Steamboat Springs will support a diverse and vibrant economy by preserving and protecting City assets and amenities, by promoting and leveraging the increased use of existing public and private assets, and by further increasing economic diversity and average compensation.



2

How we got here and where we are going:

In the Fall of 2010 and through the 2010/11 winter the City Council of Steamboat Springs, Colorado gathered information and input from its citizens in order to craft an economic development policy for the City. The sharp national economic downturn of 2008 impacted Steamboat's economy and in 2009, for the first time in over thirty years, the City's sales tax collections dipped. Construction, which represented more than 30% of the City's industrial make-up, was most impacted as the demand for second homes in the resort area diminished. Problems continued with an additional drop in sales tax revenue in 2010. In an effort to understand the issue and the City's ability to assist in a solution, Council held an all-town meeting in November, 2010, to hear ideas for economic improvement from local businesses. With the help of local facilitator, Roger Good, Council held a series of workshops to craft these and other suggestions into a development policy. This booklet is the culmination of their work.



As the Council's public meetings on economic development wound down, three overarching themes became prevalent and repeated. These three are the basis for the City's economic policies:

- 1. For economic sustainability, we must protect and preserve our existing assets.*
- 2. To stir economic activity, we must leverage our existing attributes.*
- 3. For economic development, we must encourage business diversity and career creation.*

3

Howelsen Hill is the jewel of the Steamboat Springs Parks system and acts not only as a ski area that supports Nordic skiing, alpine skiing, snowboarding, snow shoeing and snow tubing in the winter, but is also the home to the rodeo grounds, ice arena, horseback and bike riding trails, an alpine slide, playground, a skatepark, tennis courts, volleyball courts and baseball fields. Founded in 1914, Howelsen Hill is the oldest ski area in continuous use in Colorado, and has the largest and most complete natural ski jumping complex in North America. 79 Olympians who have made 135 Olympic appearances and won eight Olympic medals have trained at Howelsen Hill.

The Howelsen Hill Centennial Campaign had its official kick-off on July 4, 2010. It is a public/private partnership designed to invest in a facility that brings great pleasure to the community. The goal of the campaign is to provide funding for expanded snow-making capacity, additional night-lighting to enhance night skiing, a summer ski jump and a mini-magic carpet for your youngest skiers.



Preserve and Protect Existing Assets - Strategy #1

#1A

Maintain and replace City infrastructure through increased attention to deferred maintenance or needed improvements.

- ❖ Target grants to fit programs rather than vice versa.
- ❖ Determine a minimum CIP spending.
- ❖ Continue funding certain basic CIP programs, paving and facilities maintenance, at current levels.
- ❖ Support Howelsen Hill Centennial Campaign.
- ❖ Complete a deferred maintenance inventory and budget annually to address the issues – with a goal to resolve all issues within the next fifteen (15) years.
- ❖ Establish a policy of requiring the funding of or plan for funding ongoing operating and maintenance costs for new capital construction prior to construction.
- ❖ Follow the plans of the 2010 Rate Study for Water and Wastewater Utilities.

4

Preserve and Protect Existing Assets

#1B: Water Rights Firming.

- ❖ Continue annual budget of \$100,000 for the purchase of water rights.
- ❖ Schedule and implement plans for the beneficial use of water rights in parks by converting to the use of raw water – with an annual budget of \$50,000.
- ❖ Continue the water conservation program.
- ❖ Follow the 2010 Rate Study rates geared to encourage conservation.
- ❖ Complete and maintain the water rights accounting systems – both parks and public works.
- ❖ Coordinate efforts with other water agencies and organizations (ie. Mt. Werner, Upper Yampa Water Conservancy District) when our goals align.

The City of Steamboat Springs Parks Maintenance Division has extensive responsibilities maintaining ninety (90) acres of parkland/athletic fields of which seventy-five (75) acres are irrigated. Use of our raw water rights rather than treated water will protect our rights while lowering our level of service costs.



Annually, the City provides over \$1.2 million in direct donations to community efforts ranging from summer tourism marketing to environmental efforts. Summer events are a trademark of the area bringing thousands of tourists to Steamboat Springs through the combination of entrepreneurial non-profit organizations and city support. Annual events like the Winter Carnival require hundreds of City employee man-hours to push snow on Lincoln Avenue and to staff events like the one shown at the bottom of the page.



Preserve and Protect Existing Assets

#1C: Recognize the value of city employees and citizen partnerships to accomplish the vision.

- ❖ Provide employees with relevant performance feedback, establishing criteria for improved performances and recognizing specific work product.
- ❖ Partner with the Winter Sports Club on Howelsen improvements.
- ❖ Partner with Ski Corp., Chamber, Routt County Riders and others on bike amenities and programs.
- ❖ Partner with citizen groups to provide 55 annual special events.
- ❖ Provide staff support to our appointed commissions and committees.
- ❖ Continue budgetary support to area non-profits that focus on environmental, health/human services and arts/cultural endeavors in the community.
- ❖ Demonstrate accountability of the use of taxpayer dollars by publishing interim budget/actual expenditure reports to the City's web site.



Preserve and Protect Existing Assets

#1D: Acknowledge and support the importance of tourism as an economic driver.

- ❖ Continue to support special event funding.
- ❖ Enhance the effectiveness of marketing dollars; track chamber reports; measure and compare year to year results for accountability; work toward a comprehensive audit of effectiveness.
- ❖ We are invested in the ongoing leadership of the Chamber.
- ❖ Work with the community on a long term solution to ensure sufficient airline seats.
- ❖ Follow through on Area Master Plan and all related plans including Complete Streets.
- ❖ Connect our trails and sidewalks.
- ❖ Continue free transit routes.

The approval of the Complete Streets Ordinance and Multi-Mode Master Plan will create a framework to implement our multi-mode transportation network by linking the trails, sidewalks and new bike and transit master plans.



7

The Colorado Mountain College Small Business Resource Center and Bike Town USA Initiative developed the "Business of Biking" seminar that helps with understanding how to create the opportunity to profit from bicycle related tourism.

Leverage Existing Assets – Strategy #2

#2A: Promote business retention.

- ❖ City Manager and Management Team will be actively involved with local professional groups to network with businesses.
- ❖ City Manager will visit at least two local businesses each month to discuss current business issues and learn how the City can best support local businesses.
- ❖ Provide incentives for expansion that creates new jobs in line with the criteria established later in this document for new business incentives.
- ❖ Coordinate with our Economic Development partners to perform business visitations and exit interviews.



8

Leverage Existing Assets

#2B: Enhance Year-Round Air Service.

- ❖ Participate as a member of the local task force of the Chamber to research methods of funding future air service beyond the current provisions of the Local Marketing Tax District.
- ❖ Regularly attend the Airport Commission meetings and engage them to assist with this issue.
- ❖ Explore all avenues for assistance.



9

The City's codes are simply tools created to implement the community's mutual interests in the quality, safety and well being of their city. Zoning codes, building codes and other regulations are derived from the goals and objectives of the community's publicly adopted plans as well as state and national standards. As such, the intent, substance and use of the codes must be clear and accessible by the community they are designed to serve. Many codes focus almost entirely on those things that are prohibited and attempt to prevent "bad" things through more regulation and process that at times inadvertently make it more difficult to do "any" thing. Codes that serve the community well must also make it easiest to do the "right" things.

The Steamboat Springs Community Development Department is currently working to create its "Development Lite" code which will provide developers with a front-end evaluation of their plans. Codes have been changed in 2011 to enable easier re-use of existing commercial space. Other work is underway to continue simplification of the current codes.

Leverage Existing Assets – Strategy #2

#2C: Streamline City Processes.#

- ❖ Review and methodically change the current planning code to provide clarity and ease of use.
- ❖ Change the development review process so that a pre-review is done to give a developer an idea of whether they are "on the right track."
- ❖ Work with the regional building department to simplify and streamline the building permit process.
- ❖ Firefighters assist with commercial building inspections.
- ❖ Provide constant review of tax code to ensure it is up to date, easy to use with regulations that cover contemporary business needs.
- ❖ Use the City web site to provide citizens with easy access to services and information.

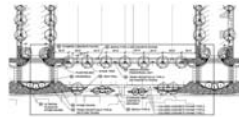


10

Leverage Existing Assets

#2D: Develop and promote non-ski-season activities.

- ❖ Bike Town USA! Is a focus.
 - Purchase the Orton property.
 - Meet regularly with the HEMP group to ensure active development of the Orton property.
 - Apply for the Colorado Regional Tourism Act TIF.
- ❖ Revitalize Yampa Street.
- ❖ Staff, oversee and manage the improvements of the Urban Renewal Authority.
- ❖ Staff and support bicycle events including these 2011 events:
 - USA Pro Cycling Challenge.
 - Bicycle Tour of Colorado.
 - Ride the Rockies.
- ❖ Annually fund a summer marketing program.
- ❖ Continue to support summer special events.
- ❖ Satisfy the terms of the Triple Crown contract.
- ❖ Pursue other sporting events.



Yampa Street represents an undeniable opportunity for redevelopment, investment and economic growth in Steamboat Springs. Yampa Street is not only the link between the bustle of Lincoln Avenue and the amenities of the Yampa River; it is poised to be Steamboat's most complete strolling, biking, gathering, shopping and entertainment area. Attention to pedestrian amenities including improved drainage, sidewalks, lighting, access to the river and Howelsen views will set the stage for private investment.

The Steamboat Town Challenge is a seven race mountain bike series held every summer. The series includes both hill-climb and cross-country events that include extensive local and visitor participation. Originally started in 1989 as a friendly grass roots competition it has grown into one of the states premier bike racing series.

Encourage Business Diversity and Careers – Strategy #3

#3A: Enhance messaging to our visitors through local initiatives.

- ❖ Work with the Chamber to ensure that participants in various City-sponsored events have a "gift bag" of information that encourages them to participate in other activities and to extend their stay.
- ❖ Create a follow-up methodology for responses of interest in the city.
- ❖ Use our economic development partner(s) to find a way to provide information to visitors who may wish to start a business in Steamboat.
- ❖ Use our City web site to link to the new Steamboat Springs Economic Development Council web site when it is complete, to target visitors and encourage them to return as business owners.



Encourage Business Diversity and Careers

#3B: Create/enhance a small and new business support system.

- ❖ Work with our Economic Development partners to provide a well-advertised, easily located One-Stop place (which could be or include a website) for new and small business resources.
- ❖ Link to and support the small business element of Colorado Mountain College, SCORE, and the Steamboat Springs and Routt County EDC's.
- ❖ Provide direction to the EDC's we fund or support.
- ❖ Eliminate redundancies among the activities of the various economic development organizations that receive City support.
- ❖ Budget micro grants up to \$5,000 for small for-profit businesses who meet the following criteria:
 - Located in the City limits.
 - Evidence of other seed capital.
 - New business or expansion /improvement of current, active business.
 - Can demonstrate a return on investment through a business plan.

In the mid 1980's a local couple started a business in Steamboat Springs for wool hats. Like today, bank loans were difficult to get. Steamboat Springs is a member of Northwest Colorado Council of Governments (NWCCOG) which provided a \$5,000 loan for this new business that ultimately became the incredibly successful Smartwool Company.

Smartwool has grown into a global leader with more than 400 products available in 35 countries throughout Europe and Asia Pacific. According to industry research, the company owns 70% of the market share in the US outdoor market and nine out of ten best selling socks in the outdoor specialty market.

From the very beginning, Smartwool has done business differently; looking for innovative ways to do business in everything from improving efficiencies to lessening their carbon footprint to giving back to the outdoor industry and its hometown communities.



13

Encourage Business Diversity and Careers

#3C: Require our partners who receive resources (aimed at promoting economic goals) from the City to demonstrate actions and results aligned with our economic development goals.

- ❖ Require a stronger level of accountability in the budget process.
- ❖ Give our EDC partners more direction and accountability.
- ❖ Engage our economic development partners in our economic goals.
- ❖ Require the Chamber to report trend data with its annual report – how the use of the dollars have changed over time.
- ❖ In the budget process, report on the accomplishment of activity goals in this document.
- ❖ Provide a quarterly budget report at Council's public meetings.



14

Encourage Business Diversity and Careers

#3D: Target businesses that meet our vision statement and criteria for incentives.

- ❖ Support broadband and telecommunication efforts.
- ❖ Understand all current possible economic tools:
 - Tourist Act Authority.
 - Urban Renew Authority.
 - Tax Increment Financed.
 - Enterprise Zone.
 - Business Improvement District.
 - Downtown Development Authority.
- ❖ Establish a budget for incentive and procedures for requesting incentive.
- ❖ Businesses requesting incentives will satisfy the attributes listed in the sidebar of this page.

Businesses requesting incentives will have these attributes:

Location in the City limits.

Offer health insurance whereby the employer pays 50% of the employee only premium and provides a dependent plan at cost to the employee.

Net New Jobs must be created that pay more than average Routt County income identified annually by the US Department of Commerce's Bureau of Economic Analysis (currently \$42,312).

Net New Jobs are defined as full time positions which did not exist at a Steamboat Springs area location in the twelve (12) months prior to application for incentive. The position must exist for a minimum of eighteen (18) months after creation.

A solid business plan.



15

Did you know? The US Department of Energy has stated that there is potential for energy saving in the magnitude of 90 Billion KWh by increasing Home energy efficiency? Estimates of the job creation potential of energy efficiency investments range up to 70 person years of employment per \$1 million invested. Municipal involvement in the field of energy efficiency can also set a positive example to the rest of the community, and help develop expertise that will facilitate the design of energy efficiency initiatives aimed at the entire community, including the private sector. (www.energysave.org)

Many mountain resort communities have embraced the environmental sustainability movement and have seen increased tourism as they market themselves as leaders in environmental sustainability. This is especially critical for resort communities that rely on their surrounding scenic beauty and outdoor recreation as a draw for tourists. Many of these tourists are environmentally conscious consumers and may gravitate toward resort communities that provide leadership in environmental stewardship. With additional emphasis on sustainability, the City of Steamboat Springs will be well positioned to take advantage of this movement.

Encourage Business Diversity and Careers

#3E: Encourage Green Initiatives.

- ❖ Green Building Pilot program through Planning and Building Departments.
- ❖ Fund the Green Team.
- ❖ Promote CMC environmental degree programs.
- ❖ Examine partnership opportunities with or aid to the Moffat County Clean Energy Research Center.
- ❖ Provide an incentive through reduced fees for sustainable green building and green retrofits of commercial and residential buildings.
- ❖ Create "green construction detail" for use by local developers to assist with the design of both commercial and residential structures.



16

AGENDA ITEM # 15

City Council Updates

A report will be provided at the meeting.

AGENDA ITEM # 16a1

*****TENTATIVE AGENDA FOR TUESDAY, JUNE 7, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

CITY OF STEAMBOAT SPRINGS

AGENDA

REGULAR MEETING NO. 2011-10

TUESDAY, JUNE 7, 2011

5:00 P.M.

MEETING LOCATION: Citizens' Meeting Room, Centennial Hall;
124 10th Street, Steamboat Springs, CO

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard **following** the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

A City Council meeting packet is available for public review in the lobby of City Hall, 137 10th Street, Steamboat Springs, CO, or on our website at http://steamboatsprings.net/city_council/council_meetings. The e-packet is typically available by 1pm on the Friday before the meeting.

PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

A. ROLL CALL

B. PROCLAMATIONS:

- 1. PROCLAMATION:** Recognizing the work of the Howelsen Hill Fundraising Committee. (DelliQuadri)

*******TENTATIVE AGENDA FOR TUESDAY, JUNE 7, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

C. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

2. **Joint Meeting with the School Board.** (45 minutes)
 3. **Education Fund Board Update.** (Written report) (Brown)
 4. **Update on Community Support.** (Mark Andersen) (15 minutes)
 5. **Presentation of Chamber Summer Marketing Plan.** (10 Minutes) (Broyles)
 6. **Update from Biketown USA.** (DelliQuadri/Fenton) (20 minutes)
 7. **Direction on the RTA proposal.** (DelliQuadri)(30 minutes)
 8. **Update from Historic Preservation Commission.** (10 minutes)
 9. **Direction on an ordinance from the VNA Tobacco initiative.** (Victoria Barron)
 10. **Recommendation from the Public Art Board on a proposed mural on the Ski and Bike Kare building.** (Scott) (5 minutes)
-

D. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. ANY MEMBER OF THE COUNCIL OR THE PUBLIC MAY WITHDRAW ANY ITEM FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION AT ANY TIME PRIOR TO APPROVAL.

LEGISLATION

11. FIRST READING OF ORDINANCE:

12. FIRST READING OF ORDINANCE: Placeholder. (DuBord)

E. PUBLIC HEARING: ORDINANCE SECOND READINGS

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

*****TENTATIVE AGENDA FOR TUESDAY, JUNE 7, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

13. **SECOND READING OF ORDINANCE:** Amend CDC; peddling regulations for residential areas. (Gibbs/Foote)
-

- F. **PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first).** CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**
-

PLANNING
PROJECTS

- G. **CONSENT CALENDAR - PLANNING COMMISSION REFERRALS:** ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE OR NO COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. A CITY COUNCIL MEMBER MAY REQUEST AN ITEM(S) BE REMOVED FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION. **ALL ORDINANCES APPROVED BY CONSENT SHALL BE READ INTO THE RECORD BY TITLE.**

14. **FIRST READING OF ORDINANCE:** CDC text amendment parking code. (Keenan)

15. **FIRST READING OF ORDINANCE:** CDC text amendment secondary unit/accessory structure. (Keenan)

16. **FIRST READING OF ORDINANCE:** Rezone RE1-S & RE2-S. (Keenan)
-

H. PUBLIC HEARING – PLANNING COMMISSION REFERRALS

PUBLIC HEARING FORMAT:

- **Presentation by the Petitioner (estimated at 15 minutes). Petitioner to state name and residence address/location.**
- **Presentation by the Opposition.** Same guidelines as above.
- **Public Comment by individuals (not to exceed 3 minutes). Individuals to state name and residence address/location.**
- **City staff to provide a response.**

17. **SECOND READING OF ORDINANCE:** CDC text amendment 10% rule (subdivision standards). (Lorson)

18. **PROJECT: Overlook Park Subdivision**
PETITION: Preliminary plat for a 140 lot subdivision with associated open space, parkland and trail network including a requested variance to the maximum block length requirement.

*******TENTATIVE AGENDA FOR TUESDAY, JUNE 7, 2011*******

This agenda is tentative and the information is subject to change until the agenda is finalized.

APPLICANT: Steamboat Real Estate Solutions 1, LLC, c/o Slopeside Consulting, Ltd., Norbert Turek, 14 Park Avenue, Steamboat Springs, CO; 970-846-1610.

PLANNING COMMISSION VOTE: Postponed from April 28, 2011 to May 26, 2011.

This item was postponed from the May 3, 2011 City Council agenda.

I. REPORTS

19. Economic Development Update.

20. City Council

21. Reports

- a. Agenda Review (Franklin):
 - 1.) City Council agenda for June 21, 2011.
 - 2.) City Council agenda for July 5, 2011.

22. Staff Reports

- a. City Attorney's Update/Report. (Lettunich)
- b. Manager's Report: Ongoing Projects. (Roberts)

J. OLD BUSINESS

23. Minutes (Franklin)

- a. Regular Meeting 2011-08, May 3, 2011.
- b. Regular Meeting 2011-09, May 17, 2011.

J. ADJOURNMENT

**BY: JULIE FRANKLIN, CMC
CITY CLERK**

AGENDA ITEM # 16a2

*****TENTATIVE AGENDA FOR TUESDAY, JUNE 21, 2011***

This agenda is tentative and the information is subject to change until the agenda is finalized.

CITY OF STEAMBOAT SPRINGS

AGENDA

REGULAR MEETING NO. 2011-11
TUESDAY, JUNE 21, 2011

5:00 P.M.

CANCEL MEETING?

MEETING LOCATION: Citizens' Meeting Room, Centennial Hall;
124 10th Street, Steamboat Springs, CO

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard **following** the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

A City Council meeting packet is available for public review in the lobby of City Hall, 137 10th Street, Steamboat Springs, CO, or on our website at http://steamboatsprings.net/city_council/council_meetings. The e-packet is typically available by 1pm on the Friday before the meeting.

PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

A. ROLL CALL

*******TENTATIVE AGENDA FOR TUESDAY, JUNE 21, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

B. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

1. **Mainstreet Update.** (Barnett) (10 minutes) *Or July 5.*
-

C. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. ANY MEMBER OF THE COUNCIL OR THE PUBLIC MAY WITHDRAW ANY ITEM FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION AT ANY TIME PRIOR TO APPROVAL.

LEGISLATION

2. **RESOLUTION:**

3. **FIRST READING OF ORDINANCE:**
-

D. PUBLIC HEARING: ORDINANCE SECOND READINGS

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

4. **SECOND READING OF ORDINANCE:** Placeholder. (DuBord)
-

- E. PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first).** CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**
-

F. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS:

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE OR NO COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. A CITY COUNCIL MEMBER MAY REQUEST AN ITEM(S) BE REMOVED FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION. **ALL ORDINANCES APPROVED BY CONSENT SHALL BE READ INTO THE RECORD BY TITLE.**

PLANNING PROJECTS

5. **FIRST READING OF ORDINANCE:**
-

G. PUBLIC HEARING – PLANNING COMMISSION REFERRALS

PUBLIC HEARING FORMAT:

- **Presentation by the Petitioner (estimated at 15 minutes). Petitioner to state name and residence address/location.**

*******TENTATIVE AGENDA FOR TUESDAY, JUNE 21, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

- **Presentation by the Opposition.** Same guidelines as above.
 - **Public Comment by individuals (not to exceed 3 minutes).**
Individuals to state name and residence address/location.
 - **City staff to provide a response.**
6. **SECOND READING OF ORDINANCE:** CDC text amendment parking code. (Keenan)
 7. **SECOND READING OF ORDINANCE:** CDC text amendment secondary unit/accessory structure. (Keenan)
 8. **SECOND READING OF ORDINANCE:** Rezone RE1-S & RE2-S. (Keenan)
-

H. REPORTS

9. **Economic Development Update.**
 10. **City Council**
 11. **Reports**
 - a. **Agenda Review (Franklin):**
 - 1.) City Council agenda for July 5, 2011.
 - 2.) City Council agenda for July 19, 2011.
 12. **Staff Reports**
 - a. **City Attorney's Update/Report.** (Lettunich)
 - b. **Manager's Report: Ongoing Projects.** (Roberts)
-

I. ADJOURNMENT

**BY: JULIE FRANKLIN, CMC
CITY CLERK**

AGENDA ITEM # 17a

City Attorney's Report

A report will be provided at the meeting.

AGENDA ITEM # 17b1

2011 Pay Plan Key Points

During the 2011 budget process, through reductions in operating budgets and reductions of staff, \$200,000 was set aside as an HR Contingency aimed at supporting a pay plan in 2011. During the first quarter of 2011, additional efficiencies have been identified (the majority in reduced FTE numbers) that have increased the HR Contingency. While the City Manager has the authority, through these already appropriated funds, to implement a one-time merit award plan in 2011, staff felt it was important to inform Council of the positive steps taken by city staff to implement changes that lead to more efficient operations and of the rewards planned to recognize that work. Terms of the plan follow:

To all personnel actively employed on December 31, 2010 as either a permanent full or part-time employee, an efficiency merit award would be made of 5% of annual salary up to \$2,200. Normal taxes would be withheld from the award.

Because staff have not received an increase in salary base for several years and to address the compression this causes (employees who were hired 3 years ago are making the same salary as the employee hired this year, but the 3-year employee has more value to the organization), the merit award will be factored by the number of years' of service in the following fashion:

0-1 Years employed	50%	of award
1-2 Years employed	60%	of award
2-3 Years employed	70%	of award
3-4 Years employed	80%	of award
4-5 Years employed	90%	of award
5 Years and Up	100%	of award

This Employee Efficiency Merit Award will be paid to effected employees on June 3, 2011.