

MEETING SUMMARY
MARIJUANA REGULATORY WORKING GROUP
JULY 1, 2020
9:00 A.M.

NOTE: The public may provide written comments prior to the meeting by emailing those comments by 5:00 p.m., on Tuesday, June 30, 2020, to planning@pueblounty.us. Only comments relating to the neighborhood impact of expanding licensed premises in Pueblo County will be considered. The meeting may be viewed live on the County's Facebook Page <https://www.facebook.com/PuebloCounty/> however comments will not be taken through Facebook during the meeting.

The following are summarized statements from the Working Group members and County Staff. Please refer to the Pueblo County Facebook page to watch the full video of the meeting. Times from the video are listed below for your convenience.

Ms. Long opened the meeting at 9:04 A.M

I. ROLL CALL

Members Present: Vanessa Cruz, Tommy Giadone, Brad Lisac, Jim Parco, George Schleining, Scott Smith (joined at 9:50 AM)

Members Absent: Matt Bernal, Michael Sample

Staff Present: Gail Wallingford-Ingo, Deputy Director for Planning and Development; Sarah Long, Assistant County Attorney; Dani Cernoia, Recording Secretary

II. PUBLIC COMMENTS

There were no public comments at the beginning of the meeting

III. GENERAL DISCUSSION

5:39

Mr. Parco suggested to discuss what the policy should be for getting licensed when proximate to non-agricultural zone districts.

8:18

Mr. Lisac suggested changing to A1 zoning, 35 acres, because some A1 zones are smaller than 35 acres.

9:25

Ms. Wallingford-Ingo to explained that there are smaller parcels in an A1 zoned district that don't contain the minimum 35 acres because they are documented as being in existence prior to the adoption of zoning. Therefore, they are issued a grandfather certificate that allows them to have all the permissible uses of an A1 but recognizes their deficiencies.

Ms. Long asked the group to keep in mind that there are changes that may not impact cultivations that already exist.

10:40

Mr. Lisac suggested to have an A1 zoning district, 35 acres or more added to licensing.

11:23

Mr. Parco asked Mr. Lisac if he is suggesting that, if you are an applicant wanting to grow outdoors, you need to be in an A1 district 35 acres or larger. If they are not, there need to be rules put into place for license hearings, etc. Mr. Lisac said he thinks that is a good start and would get outdoor grows away from residents.

12:53

Mr. Parco asked if the licensing policy should be having a hearing or boundaries if an applicant is in an A1 district less than 35 acres. He also suggested to have a working document of what the recommendations might be for outdoor cultivations.

13:30

Mr. Lisac suggested a Use By Right or Use By Review.

15:14

Mr. Schleining stated that when a license was permitted, they were all in pot houses and they (the residents) had no idea they (business owner) could expand outdoors until it happened. He thinks there should be a difference in licensing between indoor and outdoor grows so the people in the area know the intent.

16:28

Mr. Parco asked if they want to recommend restricting future outdoor cultivations in an A1 district to be on a parcel 35 acres or greater.
Break up the licensing into existing and new, grandfathering.

18:34

Mr. Giadone recommended a tax incentive to people in the area or, for areas around 40th Lane, if water is existing and you want to grow outdoors you must do it in that area. If you don't want to grow outdoors and are in a residential area you must put a greenhouse up.

21:47

Mr. Parco added that, from an industry perspective, he doesn't want to wait months or years to grow through the process of expanding. Hearings and neighbor input will stifle development throughout Pueblo County. They need to recommend pushing outdoor grows to where they are not near residential areas.

23:54

Mr. Parco referred to the Modification of Premise process stating that if he wanted to move a cash register 4 feet, he must do a Modification of Premise. From the industry standpoint, that would be problematic to have to go through public hearings to move a cash register. He added that he doesn't want to put administrative bureaucracy in place that is not needed but, at the same time, make a determination which is needed and break up the process to be indoor and outdoor cultivations.

27:37

Mr. Parco gave the example of a new applicant for an outdoor cultivation on a 35-acre parcel, A1, surrounded completely by other A1 parcels. He asked what Mr. Lisac would like to see for licensing policy with that specific case. Mr. Lisac replied that surrounding neighbors within one square mile (or whatever distance is agreed upon) should be notified so they can contribute public comment and voice their opinion whether it be right, wrong, or indifferent.

30:05

Mr. Schleining added that the process of granting a permit should not be final until the entire communication process is complete. Mr. Schleining and Mr. Lisac agreed that indoor and outdoor grow licenses should be different. Mr. Lisac added that the only outdoor grow within the parameters of what they are referring to is the one on 38th Lane.

32:41

Ms. Long addressed that when they are looking at new licenses, they do have hearings for some new license types including outdoor cultivations. The notice does not go out to neighbors but is posted on the property and in the newspaper. If they recommend that notice goes out to neighbors within a certain vicinity, the Liquor and Marijuana Licensing Board has very specific standards that they have to follow. They are mostly looking at concerns of public safety for the neighborhood. If the group thinks that the standard should be more broad and that the LMLB should include more neighborhood concerns, the group should discuss exactly what those standards should be. Ms. Long added that, for expansion, if the group wants a similar system they could look at it for only expanding the licensed premises boundaries. Another idea for the group to consider is waiving the process if there are no residential houses within a certain vicinity.

35:25

Mr. Giadone stated that for Bands in the Backyard, he has to certify mail every neighbor which gets costly. When you get a lot of opinions, there are still a lot of people that are uneducated and misinformed about cannabis. To him, it's more about safety than people's emotions.

36:39

Mr. Parco thinks that notification isn't negative, and they want transparency. He stated that a square mile seems like a big area. What is the distance at which an outdoor cultivation would unlikely affect someone's peaceful possession of their property? 1000 feet from the property line of the parcel all the way around is basically a half mile diameter. Would 1000 feet of a property line from an existing cultivation for notifying neighbors of an expansion of an outdoor cultivation be a place to start?

37:55

Mr. Lisac answered yes, and suggested 1000 feet or two property lines. Mr. Parco said he thinks that the commissioners should decide on the distance, but asked the group if 1000 feet is a good starting point.

39:15

Mr. Lisac asked Ms. Wallingford-Ingo what the distance is for Bands in the Backyard.

Ms. Wallingford-Ingo responded that there is a difference in permits. From a land-use perspective the notification process by state statute is 300 feet from the property boundary. That is notification to landowners, not notification to area residents which can sometimes be different. The standard is 300 and for a special permit, the distance is 500 feet but that's a special event permit.

40:20

Ms. Long suggested that staff start a working document of ideas. Once they have all the ideas down, they can attach a number (distance for notification) if they all agree or leave it for the commissioners to consider. They don't all have to agree on everything right now, we can write the ideas down and remove them from the final recommendation if needed.

41:14

Mr. Lisac suggested not saying property/landowners, and say residents instead.

41:51

Mr. Parco brought up greenhouses. He asked Ms. Wallingford-Ingo and Ms. Long if there are any documented cases of complaints registered against indoor cultivation. Ms. Wallingford-Ingo responded that, from a zoning perspective, the complaints they get is for the inadequate use of blackout curtains. Ms. Long responded that, at LMLB meetings, there have been comments about indoor cultivations having smell. There have been discussions about the filters used and those types of requirements.

42:50

Mr. Lisac didn't have an issue when the grow next to him was indoor. He didn't smell it often.

43:20

Mr. Parco asked Ms. Wallingford-Ingo if light pollution is the source of the complaints. She responded yes. He explained light cycles for growing. He asked if there could be a rule in place for indoor cultivations with neighbors in a certain area to have the curtains shut when the sun is down.

45:41

Mr. Giadone agreed. Mr. Parco added that, for a store, the signs have to be off between midnight and 6:00am.

Ms. Long stated that there are rules for curtains, but the complaints are about them not being adequate or used properly.

Mr. Parco added that part of the objective of the group is that they want to bring cannabis in line with everything else in the community. They don't need a special rule for indoor cultivation light pollution, they need to be held to the same rules others are held to.

48:02

Mr. Lisac said having 6-foot fence with barbed-wire and shadow covering is extreme for an indoor grow. He stated having a more appealing fence would help.

Scott Smith joined at 9:50 AM and Mr. Parco caught him up on what was discussed prior to his attendance.

Mr. Parco stated fences are for keeping things away and not required for anything other than outdoor grows. Ms. Wallingford-Ingo said he was correct.

51:45

Ms. Wallingford corrected her previous statement, and clarified that fences are required wherever a licensed premise is designated for cultivations.

52:15

Mr. Lisac and Mr. Giadone agreed that the fencing looks like a prison fence or junk yard next to homes. Mr. Lisac would like a normal fence that you can see through for an indoor grow in a residential area. Mr. Giadone agreed and supports beautifying Pueblo County. Ms. Long informed the group that there are two layers of requirements to consider with some of the issues. There are County regulations in addition to the State's requirements and also the County's minimal requirements under the State regulations that cannot be changed at a local level.

45:43

The group discussed the smell and odor of cultivations. They all agreed they are not concerned with the odor of indoor cultivations.

1:02:09

Ms. Long summarized the ideas discussed thus far listed on the Working Document. She advised the group to think about the standards that the LMLB can consider for neighbors coming in for public comment. The fence and light are not something they currently consider. She also brought up the buffer zone that had not yet been discussed at this meeting but was last week. Do they want to limit expansion within a certain distance of residential home that is near the property line?

1:05:42

Mr. Lisac added that the buffer zone currently in place is 250 feet structure to structure, or however it is worded. He continued that it used to be 500 feet property line to property line, and he thinks that worked well.

1:06:45

Mr. Parco clarified that if a grow is in the middle of nowhere, all A1, they don't need a buffer zone. The buffer zone is only for grows surrounded by other zone districts that allow residential that could be affected by an outdoor grow.

1:08:57

Ms. Wallingford-Ingo added that there are designated buffer zones based on prohibited uses and PUD's and zone districts. A1 to A1 does not necessarily mean they will have 35+ acres.

The group discussed zone districts and neighbor notifications for outdoor cultivations.

1:16:56

Mr. Lisac asked if they can put a number on how many outdoor grows are allowed in Pueblo County. Mr. Parco responded that 15% excised tax is generated on the first transfer of any cannabis coming out of a cultivation. Pueblo County gets an additional 5%. From a tax revenue perspective, he would like as many outdoor cultivations as possible in areas that are not affecting the citizens of Pueblo County to generate tax revenue. It will also produce jobs. He agrees with Mr. Lisac to get it out of town but wants to allow the grows to succeed or fail on their own based on market forces and their ability to run a business.

Mr. Smith asked if the group is charged with making those kinds of recommendations. Ms. Long responded that the scope of the group is to focus on the expansion of the licensed premise and how it impacts the neighborhood. She asked, regarding neighbor notification, what is the point of notifying neighbors if there are no standards for the Board to consider when they are hearing the resident's concerns. She advised the group to think about and discuss next week what standards should the County be considering when neighbors come in with concerns because the resident does happen to be in the area.

1:21:58

Ms. Long informed the Board that, as an example, one of the requirements for a new license going into an HOA or POA residential area is that they have to get a certain percentage of the surrounding resident's letters supporting that application. She isn't suggesting that for this case, but it is an example of a very clear-cut standard for the Board to consider; did they get the letter or not? She then gave an example from liquor licensing. She suggested the group to discuss what standard the Board or Hearing Officer will be making their decision on.

Mr. Lisac stated he thinks A1, 35 acres or more is a standard that should be considered.

Mr. Parco stated that next week, he would like to discuss rules and expansion for retail stores. Mr. Lisac agreed.

1:31:50

Ms. Long summarized that the two big topics to discuss next week are retail store expansion and the standards for the LMLB to consider for neighborhood impact. Mr. Parco agreed but also wanted to talk about all other licenses, not just retail stores. He asked the group to consider regulating marijuana the same way as liquor. He wants to bring cannabis regulation in Pueblo County in line with other businesses and consider negative impact on the community.

No public comments were received during the meeting.

Mr. Smith motioned to adjourn. Mr. Lisac seconded the motion. The motion carried unanimously.

ADJOURN

The meeting adjourned at 10:38 AM.

Respectfully submitted,



Dani Cernoia, Recording Secretary
Department of Planning and Development

LDC