



Sierra Vista City Council
Work Session Minutes
January 12, 2021

1. Call to Order:

Mayor Mueller called the January 12, 2021 City Council Work Session to order at 3:00 p.m., Council Chambers, City Hall, 1011 N. Coronado Drive, Sierra Vista, Arizona.

Mayor Rick Mueller – present
Mayor Pro Tem Rachel Gray – present
Council Member William Benning – present
Council Member Gregory Johnson – present
Council Member Angelica Landry – present
Council Member Sarah Pacheco – present
Council Member Carolyn Umphrey - present

Others Present:

Chuck Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Jon Kosmider, Deputy Police Chief
Brian Jones, Fire Chief
Sharon Flissar, Public Works Director
Matt McLachlan, Community Development Director
Jeff Pregler, Planner
Nathan Williams, City Attorney
Jill Adams, City Clerk

2. Presentation and Discussion:

A. January 14, 2021 Council Meeting Agenda Items ([agenda attached](#))

Mayor Mueller welcomed everyone to the new year and new Council Members Landry and Johnson. He explained that at the upcoming meeting there will be a ceremonial swearing in; although, they have already been sworn in and received official paperwork so that they could be present during the work session. Normally there would be a get together before the Council Meeting, but that is not going to happen for obvious reasons. He encouraged new Council Members to bring friends and family members to the Council Meeting on Thursday, January 14, 2021, if they are so inclined to do that with social distancing.

The Council Meeting on Thursday, January 14, 2021 starts at 5:00 p.m. with the ceremonial swearing after the Call to Order followed by roll call, invocation, pledge of allegiance, and the acceptance of the agenda.

In response to Mayor Mueller, Mr. Potucek stated that by Thursday, January 14, 2021, he will have more information on the status of the EMS Substation Design-Built Project, and report on the SEACOM Meeting.

Item 2 Public Hearing, Resolution 2021-001, New Series 10 Liquor License for Andrea Dahlman Lewkowitz on behalf of Max Mini Mart LTD dba Fry Blvd Chevron located at 1796 E Fry Boulevard,

Sierra – Ms. Adams stated that this is an application for a Series 10, a beer and wine sales, at the Chevron located on Fry Boulevard, west of Coronado Drive. The Chevron has been closed for a while, but they are redoing it and plan on opening back up. The convenience store is the entity that is applying for the license. The posting of the public hearing was placed on the facility over 20 days ago and no comment has been received from the public pro or con. The Police Department has done their background check and has no objection to the application going forward. If approved on Thursday, January 14, 2021, it will be forwarded back to the State for final action.

Council Member Umphrey stated that the application states that they would be completed with construction by December 14, 2020. She asked if there is a new date for final construction. Ms. Adams stated that she will find out before Thursday, January 14, 2021.

Item 3 Resolution 2021-002, Application for a Permanent Extension of Premises/Patio Permit for Christopher Guinter on behalf of Tight Spot Enterprises, LLC dba PC's Lounge Vista, Arizona – Ms. Adams stated this is an application for extension of premises for PC's Lounge submitted by Christopher Guinter. A few years ago, the City Council changed to an administrative practice for temporary liquor license adjustments, but Mr. Guinter is requesting a permanent extension of premise because they are building a patio, outdoor area in the back of their building located off Highway 90. There was no requirement for a public hearing notice and that is why this item is under new business and not a public hearing. The background check was done by the Police Department, it is an existing liquor license. This is an adjustment to an existing liquor license and if approved on Thursday, January 14, 2021, it will be returned to the State for final action.

Council Member Pacheco asked if the patio is fenced. Ms. Adams stated that it will be. Mayor Mueller added that they must be able to control liquor on their premises.

Item 4 Approval of the Regular City Council Meeting Minutes of December 10, 2020 – There were no comments. Mayor Mueller stated that it would be appropriate for the new Council Members to abstain unless they were present during the meeting.

Council Member Johnson noted that he observed the meeting on the television, but he will abstain.

Item 5 Resolution 2021-003, Planning and Zoning Commission Appointment – Mayor Pro Tem Gray stated that there were five applicants apply for the one position. She added that she spent the afternoon interviewing all but one, which will interview after the work session. She plans to have a recommendation to staff by Wednesday, 24-hours in advance to the Thursday, January 14, 2021 meeting.

Mayor Mueller noted that there is a recommendation that will come before Council and if there is discussion, it is discussed, and it is either approved or Council may add someone else.

Item 6 Resolution 2021-004, Park and Recreation Commission Appointments – Council Member Benning stated that there are two vacancies because four members termed out and there are three applicants which have all been on the Commission. He further stated that the Park and Recreation Commission will meet by the end of the day and make a recommendation to Council for the top two applicants. He plans to have a recommendation to staff by Wednesday, 24-hours in advance to the Thursday, January 14, 2021 meeting.

Item 7 Resolution 2021-005, Appointment of Rachel Gray as Mayor Pro Tem – Mayor Mueller stated that traditionally the Council has allowed the Mayor to pick his Pro Tem and it must be done through a formal process. He added that he has selected Mayor Pro Tem Gray to continue as Mayor Pro Tem for the next two years.

Item 8 Resolution 2021-006, Amending the Intergovernmental Agreement between Cochise County Community College District and the City of Sierra Vista for a Joint Program to train Emergency Medical Services and Fire Science Students – Fire Chief Jones stated that this resolution is to update the intergovernmental agreement between Sierra Vista Fire and Cochise

College for the Joint Program between Sierra Vista Fire and the College to provide the highest quality training for all emergency medical services and fire science students.

Mayor Mueller noted that this has been done before. Fire Chief Jones stated that the agreement is for five year with one-year increments if any of entities want to change or get out of the program.

Council Member Umphrey asked if the intergovernmental agreement is being amended or renewed. Fire Chief Jones stated that it is being renewed.

Council Member Umphrey stated she was looking through the agreement to find out what had changed. She asked if the change is going from three years to five years. Fire Chief Jones stated that she is correct.

Council Member Umphrey asked if the word “establishing and intergovernmental agreement” needs to be changed because a new intergovernmental agreement is not being established. Ms. Adams stated that the document is a new intergovernmental agreement. The old intergovernmental agreement is no longer in force. This will replace it and technically it is a new intergovernmental agreement.

In response to Council Member Umphrey, Ms. Adams stated that it is the same program and partnership, it just solidifies on paper and changes the terms so that the intergovernmental agreement does not have to be approved often when it is not necessary.

Item 9 Resolution 2021-007, Memorandum of Understanding with Cochise College for Fleet Maintenance and Repair Services – Ms. Flissar stated that this new memorandum of understanding with Cochise College will establish a mechanism whereby the City is able to perform maintenance on a 1997 Pierce 1,000-gallon pumper truck owned by Cochise College. The truck was previously owned by the City of Sierra Vista and was donated to the College for their Science Fire Technology Program. Since the City Fleet Department has background knowledge of the truck and its operations it makes sense to continue having City Mechanics perform the required maintenance. Labor and parts are billed at cost plus markup and therefore generate revenue for the General Fund. The initial dates of the agreement are designed to correspond with the City’s fiscal year in the event of any future rate increases.

Mayor Pro Tem Gray asked if the College has expressed interest in the fuel program. Ms. Flissar stated that they have not; but those lines of communication are always open, and this might be a catalyst.

Council Member Benning noted that this would explain the wording, “other vehicles” throughout the agreement. Ms. Flissar stated that he is correct. Mayor Mueller added that the City would love to have the College participate in the City’s maintenance/fuel programs, but it is their option, and the City needs to be able to sell it to them so that they know they can save money for their tax base, just like the City saves money for its tax base.

B. [Proposition 207 Background and Potential Code Amendments for Recreational Marijuana Dispensaries](#)

Mr. Pregler stated that the voters approved Prop 207 on November 3, 2020, known as the Smart and Safe Arizona Act. This not only allows legalization of marijuana for adults over 21 years old, but it also provides a smart and safe fund. The license fees associated with the sale of marijuana will provide a 60 percent excise tax that the State will charge to those folks that will be selling marijuana. Also, private donations will help fund the Smart and Safe Fund. In addition to this there was some confusion about this, but it is also subject to city sales tax rate of 1.95. The City will get sales tax as part of the dispensary sales of marijuana; however, the City cannot levy an additional tax rate for marijuana.

In terms of the Smart and Safe Fund distribution, 33 percent will go to the community college districts, 31.4 percent will go to local fire and police departments for enforcement purposes, 25.4 percent will go to the Highway User Revenue Fund, 10 percent will go the Justice Reinvestment Fund, public and behavioral health programs, and 0.2 percent will go to the Attorney General for enforcement of this legislation.

In looking at the background of Prop 207, some of the specifics regarding the marijuana legalization is that it allows individuals of 21 years of age or older to possess, purchase, consume, process, manufacture, and or transport one ounce or less of marijuana. The Legislation also states that it prohibits smoking in public places defined as any type of building that allows citizens or public to enter, i.e., Walmart, restaurants, and any city facilities. It also prohibits it in open spaces, i.e., parks, sidewalks, multiple-use paths or in any moving vehicle.

The Legislation does not specifically state that smoking is prohibited on city-owned properties; therefore, in discussion with the Police Department, one of the recommendations that Council will be asked to review is that Council add some language that would prohibit the consumption, possession, and sale of marijuana on all City-owned properties. Although, it is very clear that nobody can smoke or consume marijuana on any type of city facility/building and property, it does not include washes and parking lots.

In response to Council Member Pacheco, Mr. Pregler stated that city-owned property i.e., washes, parking lots – things that are not within buildings.

Council Member Pacheco asked if that includes any City easement. Mr. Pregler stated that easements are not necessarily owned by the City, but it would be anything owned by the City, i.e., athletic fields, parking lots, washes, skate park. Parks are covered under open spaces, but it would not cover property that is owned by the City and defined as an open space under the State Law. This language would cover as a catch all for all City-owned properties.

Council Member Benning asked about possessing and carrying marijuana on the City-owned busses. He noted that if a person can consume it and possess it, they must be able to travel freely on the bus if it is their only means of transportation. However, if Council tries to make it illegal to have it on that City-owned property, then people are being limited in travelling. Mr. McLachlan stated that the word possession can be removed. Mr. McLachlan stated that he believes that it can be amended by removing the word “possession.”

Mayor Mueller stated that he does not believe that they are currently at that point, this item is only for discussion.

Mr. Pregler stated that Prop 207 also addresses cultivation at a private residence. The way that the language currently reads in State Law is that an individual can harvest no more than six plants, if one individual in the household is over 21 years of age, and harvest no more than 12 plants, if two individuals in the household are over 21 years of age. Any plants that are cultivated must be in a completely enclosed building and under lock and key. It is clear in State Law that this is for private use only and the individual cannot sell out of their house. No one can get a business license or a Home-based Permit to sell marijuana out of their house because it is prohibited under State Law.

The definition of marijuana establishments/commercial dispensaries is a retail location where marijuana can be sold, cultivated, and manufactured. It can also be an offsite cultivation location where marijuana is processed and manufactured, and it can also be an offsite storage location where marijuana is manufactured, packaged, and stored. All three are defined as marijuana establishments in State Law.

Mr. Pregler stated that realistically what is going to be seen in the community is the first one, a retail location where marijuana can be sold, cultivated, and manufactured. Many of the other jurisdictions in the community, the way that they write their codes, they are based upon the fact that the retail location is what will be seen.

Mayor Mueller asked about the definition of marijuana, a plant of fibrous material, or extracts of chemical marijuana, active components in THC. Mr. Pregler stated that he is correct because it is all included.

Mayor Mueller stated that the definition of marijuana includes candy, cakes, and whatever they put together for the public. Mr. Pregler stated that he is correct.

These marijuana establishments will be licensed by the Arizona Department of Health Services. They will be a valid license for two years, and it will be renewable based on the fact they have met all the State requirements.

Some of the things that will be done is the tracking, testing, reviewing, labeling, packaging, and looking at the security of the facility. All these things must be up to their standards so that they can continue to be licensed.

The State has asked localities to sign up on a zoning form indicating that the dispensary is compliant with the cities' local zoning regulations. The State will need a copy of this before issuing a license. The locality has a lot of say in terms of the approval of some of the marijuana establishments. The Arizona Department of Health Services will start accepting early applications, January 19, 2021 through March 9, 2021 and will start issuing the licenses shortly thereafter.

Mr. Pregler stated that the way that the Code reads is under this early application process, the Arizona Department of Health Services will only be issuing two licenses per county. It is going to be preference based on existing medical marijuana dispensaries. He added that if there is an existing medical marijuana facility in the county, then they can have that first recreational marijuana license. It will be a dual license from the State of Arizona. This means that there is one additional license that can be issued in the county and this can be a stand-alone facility or dual based on the local jurisdiction's requirements.

Mayor Mueller noted that Sierra Vista currently has no medical marijuana establishments. Mr. Pregler stated that the Arizona Department of Health Services confirmed with him that there is one in the County located in Bisbee. He added that they would have the first preference to apply for a license for recreational marijuana. There could be another one that comes in later, but currently only one is available somewhere in the County that can be applied for in any jurisdiction in the County or within the unincorporated areas of the County itself.

The Arizona Department of Health Services will also issue 26 licenses to be allocated later based on Social Equity Ownership Program, which has to do with the enforcement of existing marijuana laws, based on the criminal enforcement of marijuana. Those cities that have been hit the hardest will be able to have these licenses allocated to those communities first.

Mr. Pregler stated that he is unsure as to how it will be distributed and when it is going to occur as there are no guidelines yet, but it will happen in the future. At this point, only the two in the County will be looked at for early applications.

The legislation allows for localities to have a lot of say in terms of how these establishments can be located and regulated. The language stated that localities can impose reasonable zoning regulations on marijuana establishments. It states that local jurisdictions can either prohibit marijuana establishments completely out of the city, can allow them with a dual license that means that they get a license associated with the medical marijuana facilities and it will be approved as a dual through the State. The other option is for communities to have stand-alone establishments with their own set of time, place, and manner of restrictions. Medical marijuana establishments already have their own regulations and operating processes. These restrictions placed on recreation marijuana facilities cannot be more restrictive for a stand-alone facility per State Law. A dual license would have the same restrictions and requirements that the medical marijuana establishments would have.

Mayor Pro Tem Gray asked if both can be operated if they have a dual license or is it either one. Mr. Pregler stated that a dual license is both.

Mayor Pro Tem Gray stated that in some cases if they have the higher license, they can do one or the other, but they much have both. Mr. Pregler stated that she is correct.

The current medical marijuana dispensary and cultivation of fusion operational standards is to mitigate any type of illegal activity that may occur at some of the dispensaries. Standards like these are also seen for adult businesses to mitigate some of the secondary negative effect of some of these uses.

Hours of operation for medical marijuana dispensaries is from 9:00 a.m. to 7:00 p.m. and does not allow any overnight type of sales going on at these facilities. The building and all adjacent areas on the property needed to be lighted at night and it includes parking areas and sidewalks.

The marijuana cannot be consumed in the building or anywhere on the property. No loitering signs shall be posted on the exterior of the buildings, and there is a requirement of proper disposal of marijuana remnants because they should not be placed in refuse containers. These are all safety measures to ensure that there is no illegal activity on the property.

The zoning regulations only allow medical marijuana dispensaries in General Commercial Zoning Districts.

Mayor Mueller asked if there were any medical marijuana dispensaries in the City. Mr. Pregler stated that there are none in the City.

Mayor Mueller asked about the current zoning regulations that effect those specifically within the City of Sierra Vista. Mr. Pregler stated that those type of dispensaries are only allowed in the General Commercial Zoning Districts A medical marijuana cultivation or infusion facility those are only allowed in an Industrial Zoning District.

Mayor Mueller asked if this is the City of Sierra Vista's Code. Mr. Pregler stated that he is correct.

Mr. Pregler stated that in addition to which in both situations, dispensaries, and cultivation areas, they would have to be in a conspicuous permanent building, easily seen and visible from a public street, not located within 500 feet of another similar use, and not located within 500 feet of residentially zoned properties, schools, places of worship, public parks, or public community centers. There is a safety buffer between these types of uses and other uses and zoning districts.

Mayor Mueller asked how public community centers are defined. He stated that one could argue that the Salvation Army since it conducts several community activities could be a public community center. He asked if this is an accurate description or is it more restricted to a civic-owned public community center, i.e., the Rothery Center - a training center for the School or the City. Mr. Pregler stated that the Salvation Army could also be looked at as a church or place of worship.

Mayor Mueller stated that also qualifies and noted that the Good Neighbor Alliance could be considered a community center because they bring people in there. There also some medical facilities that bring in people for group activities around town and therefore, he wonders if these are public community centers.

Council Member Benning asked if the State is looking at doing it like liquor licenses. He asked if a person wanting to only sell marijuana and not making it or infusing it, require a full license. Mr. Pregler stated that they do need a license.

Council Member Benning asked if currently there can only be two in the whole County. Mayor Mueller stated that he is correct, but there could be potentially more in the future.

Council Member Umphrey asked if a dispensary was located along Highway 92 in the past. Mr. Pregler stated that there was a dispensary along Highway 92 next to Hanna Tokyo, which was there for a several years, but is no longer there.

Mayor Pro Tem Gray stated that a liquor license requires 300 feet and asked if this is stricter than liquor. Mayor Mueller stated that it was done on purpose.

Mayor Pro Tem Gray asked if they are going above Code as this was decided a long time ago with dispensaries as medical facilities. Mr. Pregler stated that she is correct.

Council Member Pacheco asked about applying the rules of an entertainment district to a dispensary because it is applied to liquor licenses. Mr. Pregler stated that it would apply to any type of buffer area.

Mayor Mueller asked Council Member Pacheco to clarify her question. Mayor Pro Tem Gray stated that a bar can be within 300 feet of a church in an entertainment district and noted that Council Member Pacheco is asking if this applies to a dispensary within 500 feet of a church in an entertainment district. Mayor Mueller stated that the only exception in the entertainment district is for bars, which is well defined. Mr. McLachlan stated that State Law is implemented in an entertainment district, which provides the waiver ability to grant an exception to the 300-foot rule for an alcoholic beverage license only, but the rule stands if Council wanted to incorporate that same premise into the legislation that the Council is developing for dispensaries.

Mayor Pro Tem Gray asked if it is automatically. Mr. McLachlan stated that it is not. Mr. Pregler stated that this would be a local decision.

Council Member Pacheco stated that currently liquor licenses come before County for approval and review. She asked if there is any such review of dispensary licenses. Mr. Pregler stated that the City does not. All there is the zoning compliance form. If they apply for a business license or building permit, then they would have to go through the City's process to obtain those licenses and meet the local code requirements. However, they would not come before the City Council and it would be at an administrative level.

Mr. Pregler stated that for comparison purposes, the buffer for an adult business is a quarter mile to residential properties, churches and that is in State Law.

Mr. Pregler displayed the current buffer map of 500 feet that depicted that there are not a lot of areas in the community where a dispensary can be located. The area where the mall is located would be allowed as well as some areas along Highway 92, and on Seventh Street, but for the most part Fry Boulevard would not be allowed to have a dispensary under the current 500-foot rule.

In response to Mayor Pro Tem Gray, Mr. Pregler stated that the green parts on the map are recognized General Commercial Zoning District properties. The open areas represent the areas that are not covered under the 500-foot buffer.

A map was displayed indicating that there is not going to be a buffer for churches within a General Commercial Zoning District. This still applies to churches in residential areas, but it would not apply to the store front churches seen along Fry Boulevard. If this is done, it will open a lot more areas along Fry Boulevard on Wilcox Drive and areas along the intersection of Highway 92 and Highway 90 and Fry Boulevard. It is less limiting if the churches are removed from General Commercial.

Another map was shown that represents a 300-foot buffer, a less restrictive buffer with the General Commercial church buffer in the middle. The most restrictive is a 500-foot buffer. The 300-foot buffer opens a lot more areas along Fry Boulevard, and Highway 92. If Council chooses to reduce the buffer there will be more areas for these facilities to be located.

Council Member Pacheco asked if there are more liquor licenses in those areas and stated that the

map should also represent where alcohol can be sold.

Mr. Pregler asked Council Member Pacheco if she is referring to the 300-foot buffer. Council Member Pacheco stated that 300-foot buffer applies to alcohol establishments. Mr. Pregler stated that the buffer is different in terms of what they need to be buffered to. It is different from alcohol versus the marijuana. The residential on properties would be the main difference. This would be more restrictive than the liquor license buffer.

Council Member Pacheco asked about the more restrictive piece. Mr. Pregler stated that the existing 500-foot buffer is the most restrictive.

Council Member Pacheco asked about the element. Mayor Pro Tem Gray stated that it is residential. There can be alcohol within 300 feet of residential, but not marijuana.

A lot of other jurisdictions in the State are still writing language and code, but there have been a few jurisdictions that have written code relating to the legislation. The City of Surprise does have a complete prohibition on the placement of these facilities. Many communities in the State are going with the dual license process, where they can have a license for medical marijuana and a license for recreational marijuana. Many restrictions are written within their code. The City of Surprise and the Town of Pima have a complete prohibition, even with the dual license as they are not allowing those in the communities at all. There are some communities that will be less restrictive than the dual licenses. Bisbee and Tucson are looking at making this easier for dispensaries to come into the communities, and they are still writing their codes. The dual licenses seem to be the majority in the communities in the State.

Council Member Umphrey asked if the communities making the decision to completely prohibit cutting themselves out of the distribution of funds from the Smart and Safe Act. Mr. Pregler stated that they will still receive the State-shared funds regardless of whether they have the dispensaries. Mr. Potucek noted that they will not get the local sales tax.

Council Member Umphrey stated that those communities would still benefit from the other pieces that will be added to those different funds. Mr. Pregler stated that she is correct.

Council Member Benning asked Mr. Pregler if he has received any feedback from the communities that are prohibiting within their city limits. Mr. Pregler stated that he has and the reason that they prohibited it is the reason why many other communities limited to dual licenses. Apart from the secondary negative effects, there has been concerns regarding the safety of the manufacturing of marijuana within the dispensaries. He added that he spoke with the Fire Marshall and some of the concerns are that the manufacturing of marijuana does require an open flame, i.e., butane, and there is a potential explosive element in terms of manufacturing marijuana. The Fire Marshall has concerns, but any time that someone wants to build or have a facility within the City's limits, they must meet the City's zoning regulations, building and fire codes, requirements regardless of whether they come in or not.

The City of Surprise stated in their ordinance clearly that for health and safety reasons due to the potential of there being explosives in the facilities and the time that it would take police and fire to respond, that they want to go ahead and prohibit it all together within the communities.

Mr. Pregler asked the Council how they want to proceed with the recreational marijuana ordinance:

- Complete prohibition as the City of Surprise; or
- Pursue a dual license, where they would have a license with medical marijuana and recreational marijuana at the State level like many of the other communities have done in the State.

Council Member Umphrey asked why the standalone option was not included. Mr. Pregler stated that the Department would recommend to Council the first two options, the most common options that many of the jurisdictions have pursued. The City could always go with the standalone option, if

the first two options are not valid for Council.

Council Member Umphrey asked if the option is not being considered because other jurisdictions are not doing it. Mr. Pregler stated that he included this option as part of a discussion item if the first two options are not Council's decision, but the preference of staff would be to have Council look at the first two options. Mr. Potucek explained that the presentation is built as a decision tree with prohibition being the most restrictive. If Council wants a prohibition, then there is no real reason to move on with the next two options. If Council goes with the middle ground with the dual licensing, then there is no reason to go to the standalone. If Council wants less restrictions, then they can go with the standalone option. Staff is not making a recommendation. This is a policy decision of the Council. Staff is only presenting the options.

Council Member Jackson asked about cultivation at a private residence where one individual can have six plants, or 12 plants if there are two individuals over 21 years of age. He added that he is puzzled with the requirement of having the plants located in a completely enclosed building under lock and key. He wonders how this will occur in most residential neighborhoods within the City of Sierra Vista. This is outside of the purview of talking about a dispensary. He asked if people would start building greenhouses in their back yards. Mayor Mueller stated that it does not state separate completely enclosed buildings.

Mayor Pro Tem Gray noted that it can be a closet according to the Prop. Mayor Mueller that he understands that they can build a separate greenhouse kept under lock and key. He further stated that he agrees with Council Member Johnson in that it is puzzling in the way that it reads. The individuals can still grow their own stuff.

Council Member Johnson stated that he is looking at it from a public safety view and he wonders how it will be enforced. Mayor Mueller stated that the only way to enforce that is to go into a house that is open based on a call or probable cause. If the plants are not locked and growing in their living room, then they are in violation of the law if the building is not secured, i.e., leaving the screen door open so kids can go out and play. Mr. Potucek stated that the whole thing is fraught with enforcement problems.

Council Member Johnson shared that he volunteers at the evidence room for the Police Department and there have been discussions about the law going into effect, and if the person is over 21 years of age, or a person in under 21 years of age, there will be the need for a scale in each squad car to figure it out because a person could come back to get their stuff out of evidence and state that they have stuff missing based on weight.

Council Member Benning stated that he understands that currently the Council is talking about two licenses to start for the County. He asked if there are already licenses established for medical marijuana because he keeps hearing about dual licenses. He also asked if those licenses are going to be separate because Council is talking about standalone facilities, and further asked if the licenses are going to be just for private use/sale. Mr. Pregler stated that currently there is preference given to medical marijuana facilities. The two licenses that are going to be issued, if there is an existing medical marijuana facility, will be the existing medical marijuana facility that can apply for a recreational marijuana thus having a dual license. This means that there is one additional license out there and it does not have to be a marijuana facility, it can be a standalone recreational facility. Mayor Mueller noted that this is for the short term.

Council Member Benning asked if the Arizona Department of Health Services gets to decide what that license is going to be and there are 26 licenses. Council Member Umphrey stated that the 26 licenses are the extra equity ones and are separate. Mayor Pro Tem Gray stated that those have not been decided on yet.

Council Member Benning asked if there are already medical marijuana licenses. Mayor Mueller stated that there is one in the County.

Council Member Benning asked if that it turned into one of the two, then they are not dual licenses because they are not being separated. There is no need to have a medical marijuana license and an equity license. There is currently only one license. Mayor Pro Tem Gray stated that the way that the Prop is written, is that if there is one license no matter what type available left in the County because there is already one medical license, that medical license will get preference to add recreational use, but there are not going to be additional licenses on top of the two at this point.

Council Member Benning stated that there is not a standalone license, there is one license, and they can either do both or one. Mayor Pro Tem Gray stated that it is a dual license to do both, medical and recreational.

Council Member Benning asked if there is a standalone license. Mayor Pro Tem Gray stated that not at the time, but there will be. Council Member Umphrey stated that there will not be any immediately. Mayor Mueller noted that there are a limited number of medical licenses and one in the County. The discussion is not about adding additional medical licenses. The discussion is about doing the recreational license. Initially, there will be two of those and the preference will be given to the medical first. There is potential in the future to go beyond the two for recreational and that it what is being dealt with.

Council Member Benning asked if there is only one license. Mayor Mueller stated that Council could prohibit the use of that one license since the City does not have a medical dispensary. If the City had one, then the answer would be different.

Council Member Benning stated that if the Council prohibit the license in the City, it will not matter because it is only one type of license because they are not being separated in what they can and cannot do. There is only one license and a choice can be made whether it is a dual license. Mayor Pro Tem Gray stated that he is incorrect. Mayor Mueller noted that the only way it can be a dual license if there is already a medical license. Mayor Pro Tem Gray added that the only way it can be a dual license if they wanted to do both. They cannot have a dual license and only choose to do recreational. They must do both. There currently is not recreational only.

Mayor Mueller stated that there are options, prohibition, allowing the marijuana dispensaries in town and what the prohibition should be, and a standalone. He asked Council Members about the pros and cons on prohibition.

Mayor Pro Tem Gray asked about the availability of State-shared revenue with the Safe and Smart Fund if the City prohibits dispensaries. She added that there is precedence in Oregon of a county that is in court that is not getting the revenue from marijuana sales from the state because they prohibited dispensaries in their city. Mr. Pregler stated that he has not found that in the Prop.

Council Member Pacheco stated that they would receive HURF.

City Attorney Williams stated that ARS §36-2856 is the statute within the Act that governs the Smart and Safe Arizona Fund. It does not distinguish between cities that are allowing it and cities that have prohibited it. It states that any monies in this fund get distributed in a certain way, 33 percent to fire, police etc., for personnel costs, 33 percent to community colleges, 31.4 percent to municipal police departments, and it does not distinguish between those that are allowing sales and those that are not. He added that it is his interpretation of the Statute that even if the City of Sierra Vista prohibited it, the City still shares in that Smart and Safe Arizona Fund.

Mayor Mueller noted that the City would not get the 1.95 sales tax if it is prohibited because the City would not be selling any of it.

Mayor Pro Tem Gray stated that it was the county's interpretation in Oregon. This is too new and there is an interpretation issue that has not been decided in the courts.

Council Member Umphrey stated that if the City prohibits this, it will go against the will of the people

who voted in favor the Prop in the City and in the County. Mayor Pro Tem Gray noted that it was 54 percent. Council Member Umphrey stated that it was a little more in the County than in Sierra Vista.

Council Member Pacheco stated that the City of Sierra Vista voted for this.

Council Member Benning stated that they voted to make marijuana legal. They did not vote for a dispensary. Council Members Umphrey and Pacheco both stated that people in Sierra Vista voted for the Prop. Mayor Mueller countered the statements with, "people are not always right when they vote, that may be their desire."

Council Member Umphrey stated that in the favor of giving them more credit than that, she thinks that some of the fear comes from California, where they are showing up like Starbucks on every corner or in Denver. The way the law is written that cannot be possible in Arizona. It is going to be a significant lower number forever because it is based on the number of pharmacies present in the State. A few more licenses will become available here and there, one or two over the years, but it is based off 10 percent of the number of pharmacies that are across the State, which are not popping up every day. It is not going to explode like some people fear it will.

Council Member Benning stated that there will not be any drive through dispensaries any time soon. Council Member Pacheco stated that putting in the zoning restrictions already curbs it significantly. The map shows that there is hardly anywhere for them to go.

Council Member Johnson stated that he voted against the Proposition and as a former prosecutor, he is dead set against having any recreational marijuana in his town. Additionally, Council received a fiscal analysis of the Proposition and it has convinced him that they are heading down a slippery slope with respect to the City. He stated that he is against it and it is going to take some convincing for him to vote yes on the Proposition. The fiscal analysis was informative in that for every dollar that the City benefits as a government it is going to cost \$4.50 down the road for treatment etc. In looking at what happened in Colorado where the traffic fatality caused by somebody impaired by marijuana, went up by 109 percent over the previous year and that is cause for his concern. This thing is fought with all kinds of enforcement issues and he does not want to put the City's Police or public safety people in this position, at least for right now. He added that he understands that the City is going to chop at bit for 1.95 percent, but it is very short sighted on the Council's part.

Council Member Benning stated that he thinks that either way there will be enforcement issues, whether the City prohibit a dispensary in the City's limits or not. The City is not going to eliminate selling from the homes. It is going to be quick and fast and easy to get it and quick money so that is not going away. This is like when they prohibited alcohol. He agrees with one of the pros, people voted for it and if someone wants to make a profit and open and establish a business, he is not going to tell them that they cannot be a business owner. He also agrees with Council Member Pacheco in that making the zoning what it is will eliminate putting this where it is not wanted. Lastly, he stated prohibition should be taken off the table. If they can get the license, they can establish the business, they should be able to start a business in the United States even if it is in Sierra Vista. The con for prohibition for him is that he cannot tell someone that they cannot be a businessman.

Council Member Umphrey added that she looked at how many medical card holders there currently are in Cochise County and found that it is over 4,000. To think that even those people that need it medically for chronic pain and the City is making them leave to get something that they need to manage their symptoms is not fair.

Council Member Pacheco stated that a prohibition of not having a dispensary in town does not prohibit people from using marijuana because the Proposition stated that it is legal statewide. Yes, there are going to be a lot of years of figuring out enforcement, but that is going to happen regardless because this is legal. Whether or not there is a dispensary in town is irrelevant to marijuana being legal.

Mayor Mueller asked Council Member Pacheco if the con is accessibility. Council Member Pacheco

stated that he is correct because there are citizens that use it and not just for medical reasons only and they now have the right to do so legally. She noted that she is against prohibition adamantly.

Council Member Landry stated that the citizens voted for it and noted that Council Member Umphrey made great points about people who have medical license and must travel outside the City. She further stated that she is not in favor of prohibition.

Mayor Pro Tem Gray stated that she does not agree with prohibition for many of the reasons stated before. She added that just like other businesses that the City has, there are restrictions on them that she would not frequent, but it is not her place to tell someone that they cannot have it, if it is legal.

Mayor Mueller stated that he can see where the consensus of Council is at, but he agrees with most of the things that Council Member Johnson said. He is a firm believer that prohibition is the way to go. He further stated that he considers Sierra Vista a federal city and by that he means that they have most employees working for the federal government and the federal government has additional restrictions on personnel, especially with clearances, and there are sensitive things going on the Installation. It allows an atmosphere for soldiers and civilians to go down a path that is going to be detrimental to them in addition to the things that were mentioned about future medical costs and counseling costs and social issue that have come up with the abuse, not medical use of marijuana. Lastly, he stated that he tends to go towards the prohibition side.

Mayor Mueller asked Council about the second option, permitted only as a dual license with medical marijuana dispensaries.

Council Member Umphrey stated that she is not in favor of limiting/restricting the business that the City could not keep before. There must be a medical one. She added that she does not know the reason why they left and was not aware that there was one in the City. It seems that restricting it to having them have both, medical and recreational, is over-regulatory.

Mayor Pro Tem Gray stated that this is a good compromise because there is a split. She added that she is trying to think about the future, as things open and as the City gets are more licenses. While the City is limited, should Council choose the current guidelines/restrictions on where dispensaries can be, this is a nice compromise. She shared that while she was vacationing in Venice Beach, the entire area had recreational marijuana shops and she does not want to see that for this town. She further stated that she understands the standalone and not restricting it, but with medical marijuana, it limits being covered in every spot.

Mayor Mueller asked for clarification regarding discussion about a dual license facility. He asked if this is the re-establishment of the medical and adding the recreational. These would have the same standards zoning-wise that the City currently has for the medical. Mr. Pregler stated that he is correct unless Council chooses to change those standards. Council Member Pacheco stated that it does not make sense to make them get a medical marijuana dispensary license because the City is telling them that they must, even if the same zoning restriction applies to a standalone. The City will be making a business jump through more hoops.

Council Member Johnson asked if there have been any inquiries as to opening a medical marijuana or recreational marijuana dispensary in the City. Mr. Pregler stated that there have been inquiries about both. He added that he has spoken to two individuals, one wanted to open a medical marijuana dispensary and the rest want to open an adult marijuana establishment.

Council Member Benning asked if they may smoke inside the facility. Mayor Pro Tem Gray stated that they cannot.

Council Member Umphrey asked about the Social Equity Ownership Program will be either, or, or only recreational marijuana licenses. Mr. Pregler stated that the way that it is written in the Legislation, it applies strictly to the recreational marijuana license.

Council Member Umphrey asked if the existing medical establishments will get first dibs at the dual for recreational marijuana. She stated that the only option left is the recreational if anyone qualifies in the City. She noted that this is vague and that has not yet been established. She further stated that she does not want to block it out if that is the only option in getting a business to come in. She would rather it stayed more open to either the dual or the recreational.

Mayor Pro Tem Gray asked Council Members Umphrey and Pacheco if they want to leave it open for options.

Mr. Potucek stated that the next decision for Council if Council is not interested in the dual would-be having standalone, but for potentially applying the same zoning standards to it as the medical.

Council Member Pacheco asked if Council is discussing the kind of resolution that will be drafted that would come back to Council after public comment. Mayor Mueller stated that staff is trying to get the consensus of Council so that they may have direction as to what to draft. Staff will then draft, based on the Council's direction, and come back before Council with the language, further discussion, and approval. There is no requirement under the law for public comment. Mr. McLachlan noted that there is a 30-day public comment period.

Mayor Mueller asked about the process if Council wants to allow a recreational dispensary under the current zoning code so that it looks the same as the medical dispensary, and that is the guidance that is given to staff to draft those comments. Mr. Pregler stated that staff would draft the language and would come before Council at a public hearing. It will go before the Planning and Zoning Commission first and they will make a recommendation to Council, and then Council will decide whether to approve as is or to make changes or reject the code amendments. This will be a public hearing process where the members of the public may be heard.

Mayor Mueller asked if there is a requirement to hold another public hearing after it comes before Council with the Planning and Zoning Commission's recommendation. Mr. Pregler stated that a public hearing is required at both, the Planning and Zoning Commission and Council Meeting.

Council Member Johnson asked about a comment period. Mayor Mueller stated that normally the public hearing would be held, and Council would not necessarily vote on it at that time. It would be an open comment period and the public will have two opportunities to comment at, the Planning and Zoning Commission Meeting and the Council Meeting. People may also do the online comments.

Mayor Mueller stated that consensus of Council is to allow recreational dispensaries to locate in the City with the same restrictions as the medical facilities as it currently exists.

Mayor Pro Tem Gray stated that it would be medical, recreational, and/or dual. Mr. Pregler stated that she is correct.

Council Member Umphrey stated that it would be great if a dual came in and not recreational.

Mayor Mueller asked Council for consensus on reducing zoning buffer to 300 feet, removing churches within commercial area from the buffer area, and any other additional requirements.

Mayor Pro Tem Gray stated that she is fine with the current zoning buffer. Council Member Umphrey concurred.

Mayor Mueller stated that the consensus of Council is to not prohibit consumption, possession, and sale of marijuana in the City outright, but would in fact allow the dispensaries, whatever form that they are.

Mr. Pregler asked Council if they want to prohibit the consumption, possession, and sale of marijuana in all City owned properties. Mayor Mueller, Mayor Pro Tem Gray and Council Member Umphrey stated that they do.

Council Member Umphrey asked about Council Member Benning's point about riding the bus while possessing marijuana and suggested removing the word "possession". Mr. Potucek stated that staff would investigate the issue. Mayor Pro Tem Gray noted that the Proposition clearly defines possession, the amount, and she assumes that it will be a part of the City's code.

Council Member Pacheco asked if possession can be prohibited. Mayor Pro Tem Gray stated that they can, but over a certain amount. Mayor Mueller stated that it can be prohibited in City facilities too. Mr. Potucek stated that enforcement is going to be an issue.

Mayor Mueller stated that once this gets through, some cleanup must be done on park rules; therefore, the Park and Recreation Commission is going to get involved. The Police Department will also need to look at specific things concerning City property, and there will need to be training to make sure that it is being done right.

Council Member Johnson asked about the definition of a public community center. He asked if that is specifically defined in Prop 207. He added that Warrior Healing Center is a public place where people congregate. Mr. Pregler stated that he will review the City Development Code.

Mayor Mueller stated that it needs to be defined, and if it involves going to court, then the City will get involved. Mr. Potucek stated that staff had anticipated that the discussion about public places would follow on after this discussion. There will probably be a presentation about that during the next Council's work session after the zoning issue is cleared up.

C. Report on Recent Trips, Meetings and Future Meetings – There was no discussion.

D. Future Discussion Items and Council Requests

Council Member Pacheco stated that she thinks that Council should show leadership and make a resolution in supporting a peaceful transition of power on January 20, 2021. She stated that she drafted a resolution for Council, which she kept simple and to the point. She asked for Council's feedback and thoughts on whether to place the resolution on the agenda for Thursday, January 14, 2021.

Mayor Mueller noted that this would be a resolution from the Council. He asked for consensus about the proposed resolution being added to the agenda for Thursday, January 14, 2021. If there is consensus it will be added to the agenda and if there is not a consensus then it will not be included on the agenda. He noted that if Council is going to do a resolution like the one being proposed, for it to be effective and have an impact, there needs to be a large majority of the Council behind it, needs to be succinct, and to the point. This will only be effective if the Council is united.

Council Member Pacheco stated that she feels that this is the time for Council to show leadership because there is not leadership in other area that is being seen, and to show that the Council supports a peaceful transfer of power on January 20, 2021. (Proposed resolution on file with the City Clerk).

Council Member Johnson asked if it is necessary to include the third paragraph. Council Member Benning concurred.

Mayor Pro Tem Gray stated that she remembers that in February 2019, Council Member Calhoun came to Council for a resolution about the concertina wire at the border wall. Council at that point decided that it was not within the purview of Council, and that was the consensus. She personally agrees with everything stated in Council Member Pacheco's resolution. She thinks that what happened is a horrible thing, but when she looks at it for the Council as a whole, she does not see it furthering the business of Council for Council's role in what Council is supposed to do.

Council Member Pacheco stated that standing up for the voice of the citizens to cast ballots in the election is part of the Council's business and an attack on that process is also the Council's business to stand up and show leadership, that as a Council will not stand for that and that Council wants to see a peaceful transition of power. She added that she believes that this is Council's responsibility as elected officials to stand up and show a strong voice there.

Mayor Pro Tem Gray stated that she understands, but Council as a body did their job and role in certifying the local election, which is within their duties of the City Council.

Council Member Umphrey stated that Council Member Pacheco's comments were clear and pointed out that there was a fair election in Cochise County. Everyone has seen how that has been done, and most of Council has been at the open houses and they trust that the election was fair and can speak on that.

Mayor Mueller asked if it would change Council Members' decision, if the third paragraph was omitted. Mayor Pro Tem Gray stated that it would not make her change her mind. Council Member Umphrey stated that all Council Members are disgusted by what happened, and that does not need to be stated.

Mayor Pro Tem Gray stated that she does not understand the purpose other than making a statement, which all leaders in the community should be doing. However, she does not understand the purpose of doing it as a collective body. Council Member Benning concurred.

Council Member Pacheco stated that it would be more powerful, and it would have a bigger impact. This also shows unifying in making a collective body resolution.

Mayor Mueller shared that the longer it takes to respond to something like this, the weaker the response is.

Council Member Landry stated that she agrees in that it was a terrible thing that happened, but she is not aware of what happened in 2019, nor the process for resolutions.

Mayor Mueller stated that there is not a consensus. No one disagrees with the statement, but there is no consensus on whether it should be a resolution or not. Therefore, he is inclined not to add it to the agenda.

Council Member Johnson asked Mayor Mueller if this item should be voted on. Mayor Mueller stated that during work sessions, Council does not vote. If Council wants to vote on it, the resolution will have to be placed on the agenda. If this is put on the agenda and there is a 6/0 or 5/2 vote, then it is all good; however, something to consider, is if this is brought up and it is voted down. Council Members as a group tend to agree with the statements in this, but do not think that it is the Council's role. He added that this is the reason why he tends to not want to do resolutions like this, unless it is an immediate issue that focuses on Sierra Vista. This is a national issue, and everyone is concerned about it, but he wonders about the impact of doing the resolution.

Mayor Mueller stated that Council Member Pacheco can make a statement and express her views on which Council does not disagree at the end of the Council Meeting during her comments.

Mayor Mueller stated that he has put out the draft liaison assignments for Council. He asked for Council Members to look at the liaison assignments and if there are issues to come and speak to him before Monday, January 18, 2021 because there are couple of these where notice must be given, i.e., the USPP and MPO about the City's representatives for the next two years.

E. COVID-19 Status Report

Mr. Potucek stated that as expected following the holiday season and the gatherings of groups and families, the State of Arizona, Cochise County, and Sierra Vista unfortunately have experienced a

sharp increase in the number of cases of COVID. The hospital is full and there have been a lot of ramifications from that. Unfortunately, that spike has also impacted the City's staff and as of Monday, January 11, 2021 the City is up to 18 positive cases, a number in quarantine and a number currently under testing protocols. This is the highest number that has been experienced since it started and that has affected the City across all City departments and facilities. As a result, he met with the department heads and have implemented closure of all lobbies and facilities and going back to the protocols that were in place earlier in the summer, i.e., curb side service at the Library and instituting on-line and other payment options for people coming into City Hall. Currently the City is maintaining the status of the outdoor facilities and uses to continue as a problem has been yet seen with outdoor usage. Usage at the Transit Center will have to be monitored, but the City will continue to run the transit services.

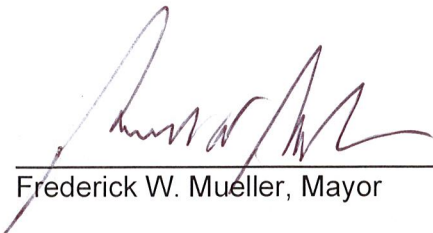
Mr. Potucek stated that he is afraid that if things could keep going the way that they are that the City may run into a situation such as the one at the Ethel Berger Center, OYCC, and the Cove, where the City does not have the staff to operate the facilities in place because of the number of people that are out. This will probably have to remain into effect for a while. The vaccines are on their way, which has been difficult for the City because the priorities for who is receiving the vaccine, the number of vaccines, where they are going to be distributed and when/how changes daily. This makes it difficult for the City to get the information out to public. The City is trying hard to work with the County Health Department to get that and Ms. Yarbrough is monitoring that for the City. The 1-A group Fire Department and now the Police Department that are eligible to receive the vaccines and the City is getting about 40 percent participation rates, which is disappointing but hopefully as people see that it is safe, which so far seems to be, that will increase participation rates. The plan is to get the other frontline employees in line and as that is done and there are good participation rates, the City facilities should be able to open. At that point, the government will have done everything that can be done for people and it is up people whether, or not they want the vaccine. Unfortunately, this is going to take a month or so. The City has the dual responsibility of keeping the community safe and employees safe at the same time.

Mayor Mueller stated that the last time he spoke about this was during the last Council Meeting. He talked about the word vigilance, and vigilance alone is not getting the job done. The City needs to make sure that the people get the information. One concern is that the only way to find out whether people can get scheduled for a shot was to go on the County's website. There are older folks that may not have access; therefore, the newspaper is going to print the phone numbers for the County to go ahead and schedule via telephone and not just by a computer so that people can get their shots. The category now is 1-B and that will continue through January 22, 2021, and hopefully those in 1-C will be able to do that immediately thereafter. There have been people in line long enough to be able to get their second shot or they are pending. It is well underway, but people need to remain vigilant, careful, and still do the testing and the tracing that is necessary to make sure that the City employees are safe as well as the citizens.

Council Member Benning stated that considering things going on in the City as the City just lost another business that was an established business for the community that ties in with COVID, he would like to see if the Council wants to sit down and talk about adding an economic development commission. This issue was brought to Council awhile back before he was even on Council. He added that having business leaders coming together to try to find ways to keep them alive during this time, is more than the Council can do as a group. This is helpful going forward in this time and age or the City will keep losing Outback, Texas Roadhouse, which in a year from now, is frightening what the City may look like unless the Council gets together with businesses to come up with solutions.

Mayor Mueller stated that it is a discussion worthy of having and getting Mr. Boone and Mr. Cline involved. This would also be a good discussion to bring up during the Council Retreat and establish a framework for future discussion amongst the Council Members.

3. Adjourn Mayor Mueller adjourned the City Council Work Session at 4:36 p.m.



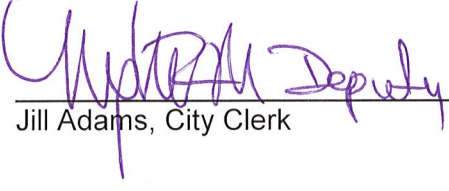
Frederick W. Mueller, Mayor

Minutes prepared by:

Attest:



Maria G. Marsh, Deputy Clerk



Jill Adams, City Clerk