

**EDGEWATER CITY COUNCIL
SPECIAL BUSINESS MEETING
MINUTES
FEBRUARY 12, 2015**

A special business meeting of the Edgewater City Council was held in the City Council Chambers.

ITEM 1. CALL TO ORDER

Mayor McNulty called the meeting to order at [7:00:00 PM](#).

ITEM 2. ROLL CALL

City Clerk Beth A. Hedberg called the roll.

Present:
Mayor Bonnie McNulty
Councilwoman Laura Keegan
Councilman Todd Riddle
Councilman David Fleck
Councilwoman Myra A. Keeble
Councilman Kristian A. Teegardin
Councilwoman Janet Spangenberg
Councilman Steve Conklin

Absent: None

Also Present:
City Attorney Thad Renaud
City Manager HJ Staf
Police Chief John Hough

Full and timely notice of the meeting had been given and a quorum was present.

ITEM 3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ITEM 4. APPROVAL OF AGENDA

Councilman Riddle moved, seconded by Councilwoman Keegan, to approve the agenda as presented. The motion **PASSED** on the following vote: **AYES:** Councilwoman Keegan, Councilman Riddle, Councilman Fleck, Councilwoman Keeble, Councilman Teegardin, Councilwoman Spangenberg and Councilman Conklin. **NAYS:** None. **ABSENT:** None. **ABSTAIN:** None.

ITEM 5. CONSENT AGENDA – MINUTES OF FEBRUARY 5, 2015

Councilwoman Spangenberg moved, seconded by Councilwoman Keeble, to approve the consent agenda as presented. The motion **PASSED** on the following vote: **AYES:** Councilwoman Keegan, Councilman Riddle, Councilman Fleck, Councilwoman Keeble, Councilman Teegardin, Councilwoman Spangenberg and Councilman Conklin. **NAYS:** None. **ABSENT:** None. **ABSTAIN:** None.

ITEM 6. COMMUNICATIONS FROM THE CITY MANAGER, STAFF, AND BOARDS AND COMMISSIONS

There were no reports given.

ITEM 7. PUBLIC COMMENTS (NON-AGENDA ITEMS)

Liz Somers expressed concerns over the procedures used to call the special meeting. She said that according to the City's Home Rule Charter ("Charter") at Section 3.5 notice of special meetings must be posted at least forty-eight (48) hours in advance. The meeting that evening had only been posted for twenty-four (24) hours in advance not giving the public due notice. Ms. Somers questioned why the meeting was an emergency and she read the provisions of Section 21.17 of the Charter. She asked what would prevent a future Mayor or City Council from calling a special meeting on every little thing that conflicted with their opinion without concerns for citizen's rights or output. She said that she did not believe that it was the intent for the meeting in this instance but referenced troubles in the past with transparency. Open records were there for a reason. Watch dogs on government were important. She wanted to be certain that the City gave ample notice of such special meetings.

Attorney Renaud clarified the provisions of the Charter contained in Section 3.5(5) and advised that a written notice must be served personally or left at each Council member's usual place of residence at least forty-eight (48) hours prior to the meeting and that notice must be posted. Attorney Renaud said that the meeting of the notice had been posted at least twenty-four (24) hours in advance of the meeting in accordance with the Open Meetings Act. The meeting that evening was a special meeting not an emergency meeting.

Pauline York said that the same people attended the meetings whether or not there was advance notice of forty-eight (48) hours, two (2) days or three (3) days. Council had been elected by the citizens. The citizens expected Council to know what they were doing and they trusted them to do the right thing.

Karen Hing inquired as to when the notice was posted.

Clerk Hedberg said that she had posted the notice around 2:00 pm on the previous day, more than twenty-four (24) hours in advance of the meeting. Clerk Hedberg stated that she had personally delivered the written notice to Council more than forty-eight (48) hours in advance of the meeting.

ITEM 8. MARIJUANA TEMPORARY MORATORIUM ORDINANCE – DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 2015-04, AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A CITY OF EDGEWATER PERMIT OR LICENSE RELATED TO THE OPERATION OF A MARIJUANA-RELATED BUSINESS AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONSIDER (I) THE ADOPTION OF AMENDMENTS TO EXISTING CITY REGULATIONS CONCERNING THE LOCATIONS OF SUCH BUSINESSES AND (II) THE ADOPTION OF LIMITATIONS ON THE NUMBER OF SUCH BUSINESSES WITHIN THE CITY; DECLARING AN EMERGENCY; AND PROVIDING FOR THE IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE (FIRST AND FINAL READING)

Mayor McNulty requested City Attorney Renaud to explain why a special meeting had been called and to explain why an emergency moratorium was necessary.

Attorney Renaud advised that the City's administrative staff, including but not limited to the planning staff, discovered prior to the meeting of February 5th that previous statements that had been made to Council about what they believed to be the opportunities for the establishment of marijuana related businesses in the City were not entirely correct. The number of possible locations rose after more measuring. Legal questions were raised in the minds of more than one member of Council. For that reason, an executive session had been conducted on February 5th to discuss legal questions on the City's marijuana regulations. As a result, the Council felt the need to discuss substantive issues concerning the potential of the adoption of new regulations that would by one means or another more greatly limit the number of marijuana related facilities that could be located in the City. His advice to Council was that, if the Council desired to consider new regulations in a calm, orderly and thoughtful manner, the City would be best served to place a temporary moratorium on the acceptance of new applications. When legislative bodies began talking about adopting new regulations that might limit locations it tended to cause a race to the permitting office. If there were later regulatory changes, applicants could argue that their application was pending and the new regulations would not apply to them. For that reason, temporary moratoriums were often adopted. Temporary moratoriums for marijuana related businesses have been regularly adopted by municipalities across the state to allow the legislative body time to discuss these sorts of marijuana issues. Most temporary moratoriums were done by emergency ordinance. After Council ended their executive session on February 5th, the Council, in open session, requested that the City Attorney prepare an emergency moratorium ordinance for consideration at a special meeting.

Councilwoman Keeble moved, seconded by Councilwoman Spangenberg, to approve on first and final reading and order published by law Ordinance 2015-04, an ordinance imposing a temporary moratorium on the submission, acceptance, processing, and approval of any application for a City of Edgewater permit or license related to the

operation of a marijuana-related business and declaring the intention of the City Council to consider (I) the adoption of amendments to existing City regulations concerning the locations of such businesses and (II) the adoption of limitations on the number of such businesses within the City; declaring an emergency; and providing for the immediate effective date of this ordinance as presented.

Councilman Riddle said he supported the temporary moratorium as a way to evaluate marijuana regulations in a responsible manner. He encouraged staff and Council to seek and well plan a thoughtful solution. He was opposed to putting a cap on the number of marijuana related businesses in the City.

Councilwoman Keegan said that when Council had considered medical marijuana regulations they had also approved a temporary moratorium. It had been very effective. She believed the current moratorium was a good step.

Councilman Conklin said that what had changed was going from a very limited number of possible dispensary locations to the fact there was a lot more possible locations and the number of inquiries City staff had received regarding marijuana license applications. Passing the temporary moratorium was a responsible Council action.

Attorney Renaud said that his personal belief in the changes was that the City Clerk had recently experienced a high volume of inquiries of potential sites in Edgewater had been a result, in small part, by the recent adoption in the City of Wheat Ridge of a numerical cap on the number of allowed facilities. Attorney Renaud advised that the temporary moratorium ordinance simply pressed the pause button to and through August 31, 2015. The moratorium would not be applied to any pending applications as of February 10, 2015.

Clerk Hedberg confirmed that no applications had been submitted since February 10, 2015.

Councilwoman Spangenberg said that Council had last discussed placing a cap on the number of allowed marijuana facilities in the City and she had not wanted to go down that road as she had the same understanding that there were a limited number of possible locations. Council did make a promise to the people who had major concerns that Council would re-visit the issue every six (6) months unless something came up where Council would need to meet earlier. Something had come up. She would vote for the moratorium as she wanted the calm discussion on what to do next. The idea that the City could potentially have a whole lot more pot shops especially as surrounding cities had already capped their numbers or did not allow them, her concern was the potential that some of the current businesses that were needed and businesses that the City wanted to grow could be taken out by "bind weed". That was scary to her. Commercial landlords could decide that it would be more profitable to lease to a marijuana business. Marijuana sales were still experimental and the bubble could pop. The City could become dependent on the marijuana sales revenue. Store fronts might be empty without a diversity of other businesses. To her it constituted an emergency.

Public comment was called for. Liz Somers said that she agreed that City Council needed to pass a moratorium and take the time for a well thought out process.

Pauline York referenced a *Denver Post* article entitled, "Pot resistance on the rise." Caps and moratoriums were being placed all over.

VOTE was called for. The motion **PASSED** on the following vote: **AYES:** Councilwoman Keegan, Councilman Riddle, Councilman Fleck, Councilwoman Keeble, Councilman Teegardin, Councilwoman Spangenberg and Councilman Conklin. **NAYS:** None. **ABSENT:** None. **ABSTAIN:** None.

ITEM 9. GENERAL BUSINESS

There was no general business.

ITEM 10. PUBLIC COMMENTS

Karen Hing said that she was grateful that City staff had discovered the potential additional locations. She was one of the people who had assured others over the years that marijuana stores could not fit anywhere else.

ITEM 11. MAYOR AND COUNCIL COMMENTS

Councilman Fleck, Councilman Teegardin, Councilwoman Keegan and Councilwoman Keeble had no comments.

Councilwoman Spangenberg thanked the public who came up to the podium and spoke.

Councilman Riddle said that decisions could be difficult at times. Understanding why Council had made a decision was important. He believed that Attorney Renaud did a good job of explaining the current circumstances. He wanted Council to continue explaining to the public why they did things.

Councilman Conklin thanked Attorney Renaud and City Staff for their efforts making certain Council had the tools to make sound decisions.

Mayor McNulty echoed Councilman Conklin's comments.

ITEM 12. DISCUSSION OF UPCOMING AGENDAS

A discussion on potential marijuana regulations was added to the March 5th work session and a potential marijuana regulation ordinance was added to the April 2nd business meeting.

ITEM 13. BUSINESS MEETING ADJOURNMENT

There being no further business, Mayor McNulty adjourned the meeting at [7:29:16 PM](#).

Submitted by:

/s/ Beth A. Hedberg, MMC
City Clerk