

Council mulls medical pot shops, panhandling

By Jeanne Davant

Manitou Springs City Council on Tuesday considered several options for regulating medical marijuana and panhandling, along with comments from an overflow crowd at City Hall.

Clarissa Eckhout of Hayes, Phillips, Hoffman & Carberry P.C., the city's attorneys, told Council members they could limit when, where and who operates medical marijuana dispensaries but could not prohibit people from engaging in a caregiver-patient relationship.

Eckhout said the city could use existing business licensing procedures, zoning, distance limitations and cultivation limitations to regulate such businesses, and could also create a special business license for dispensaries. Licensing procedures could require administrative review background investigations and security provisions.

Some towns have attempted to block medical marijuana dispensaries through their nuisance or business licensing provisions, but it is questionable whether their actions will stand up in court, Eckhout said. Colorado voters in 2000 voted to amend the state constitution to allow the medical marijuana registry program.

The laws regarding many aspects of medical marijuana dispensaries are changing, Eckhout said. A patient-physician bill has been introduced in the Legislature proposing new standards for issuance of identification cards and requirements for physician registration of patients. Another bill expected to be introduced would limit a primary caregiver to five patients.

Manitou Springs currently has a moratorium on medical marijuana dispensaries that would expire March 15 unless Council renews it.

Citizens, businesspeople and Council members expressed concerns about the effects medical marijuana dispensaries might have on quality of life and businesses.

Council members generally favored zoning and special business licensing procedures to regulate dispensaries, and at least one member, Ingrid Richter, said she would like to see regulations established as soon as possible.

Richter said her mother's physician had recommended marijuana during a debilitating illness.

"My biggest concern is proliferation," Richter said, but noted that dispensaries, "have a lot of support in the community.... I would like to see it move forward as quickly as we can get it moved forward." She added that she favors regulation through special licensing, zoning overlay and perhaps a lottery to limit the number of dispensaries.

Several speakers counseled caution.

"For me, one of the most important aspects is that the reputation of this town is very hard earned," Mayor Marc Snyder said. "Right now we have a very favorable reputation. I don't want this issue to become the defining issue; I don't want to become the medical marijuana capitol, (and) we don't want to be a test case."

Councilwoman Aimee Cox said she too is concerned about Manitou's image and suggested the city consult with the Colorado Springs Medical Marijuana Council, which is working with Colorado Springs to develop and apply regulations.

"One thing in the Colorado Springs proposals that alarmed me," Cox said, "is that it allows residential grow operations with up to 96 plants. With our residential density and the age of our

homes, I don't think we could accommodate 96 plants in homes." She added that she would like to see figures on tax revenue dispensaries might generate.

"For me, money is not a driving factor," Councilman Matt Carpenter said.

"As an athlete and as a father, I have a hard time with this."

Council members received several ordinances covering what other cities are doing to regulate medical marijuana that they could use as models.

Panhandling law considered

City Attorney Jeff Parker provided two draft ordinances to Council on Tuesday that could help solve constitutional problems with the city's current panhandling and solicitation laws.

Parker said solicitation and

panhandling are forms of speech protected by the Constitution and that the city's two current ordinances "both have constitutional issues. Speech can be regulated, but it has to be a reasonable time, place and manner restriction. You can't regulate content."

The more restrictions that are imposed, the more a measure risks unconstitutionality, Parker said. There is, however, legal support for bans of panhandling in specific areas.

Parker gave Council members draft ordinances that would forbid aggressive and coercive solicitation and prohibit active solicitation in certain areas. One ordinance would ban panhandling in the downtown area; the other would ban it in the downtown area and adjacent parks.

The ordinances would allow "passive" solicitation, such as busking. One objection to a prior ordinance considered by Council was that it was so strict as to forbid programs like the Chamber of Commerce's summer music downtown.

The ordinances also would forbid panhandling within six feet of a doorway.

Council will consider both medical marijuana regulation and panhandling ordinances at future regular meetings.

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