



## City of Rio Communities Council Special Workshop with Planning and Zoning Commission

City Council Chambers - 360 Rio Communities Blvd

Rio Communities, NM 87002

Thursday, July 29, 2021 5:30 PM

### Minutes

*Please silence all electronic devices.*

#### Call to Order

- Mayor Pro tem Peggy Gutjahr called the special workshop to order at 5:30 pm.

#### Present:

- Present: Mayor Pro-Tem Peggy Gutjahr, (virtual) Councilor Bill Brown, Councilor Joshua Ramsell and Councilor Jim Winters.  
Planning and Zoning Commission: Chair Thomas Scroggins, Vice Chair John Thompson, Secretary Scott Adair, Members: Lawrence Gordon and L. E. Rubin  
Present: City Manager Dr. Martin Moore, Municipal Clerk Lisa Adair, and City Attorney Chris DeFillippo.

#### Cannabis Ordinances(s)

- Mayor Pro tem Gutjahr requested that there be a committee to go over the ordinance and have the Ordinance ready by August 5<sup>th</sup> and would like to have 2 meetings before the P&Z Meeting on August 9<sup>th</sup>. The committee includes Jim Winters, Joshua Ramsell, Marty Moore, Lawrence Gordon and Scott Adair and City Attorney DeFillippo.
- Attorney DeFillippo began a discussion regarding the working draft: Time, place and manner restrictions; 2 items in the State Statue are schools and daycares; Taos County is trying to create a law to prevent Cannabis distribution within 200' within a school or daycares; we have to comply State law , specifically what the RLD requires; Deadlines that are approaching September 1, 2021 these growing permits will start being issued, if the municipality does not have the ordinance in place, it is fair game, local growers can begin growing activities including vertical options, meaning they can sell where they grow; We cannot come in afterwards, so we would need to have our Ordinance in before they can get permits from the State or they would be grandfathered in.
- Mr. Gordon asked with Toas as a placeholder, if things are already starting to be put in place September 1<sup>st</sup>, will anything they do will be late when it goes into effect.
- Attorney DeFillippo explained with Taos' placeholder, once the Ordinance become effective, restriction become effective; they are using it as an emergency ordinance stating that they do not have to go through the same length of time; it is butting up to that deadline, there may be a gap between the permit issued and the ordinance taking effect, and the shorter we can make that they better assurance we have of not having the grandfathering issue.
- Chair Scroggins said if RC doesn't come up with an ordinance before September 1, but Valencia County comes up would we be under Valencia County Ordinance.
- Attorney DeFillippo explained no county or municipality can supersede state law and not municipality can supersede county law, however the municipality can add additional restriction to the county.

- Councilor Brown said Belen passed Ordinance 2021-10 and they have a couple of interesting features was 600' between retail establishments and limiting how many retail establishments there could be and those might be a couple of considerations for our working committee.
- Attorney DeFillippo said if you start restricting marijuana in a way that alcohol is not restricted, it would be considered unfair to the substance; we need to write an ordinance that reflects time, place, and manner restriction in a similar fashion to alcohol and began a discussion.
- Secretary Adair asked how you can restrict on the number of dispensaries we can have.
- Attorney DeFillippo said it will be through the State like alcohol regulations.
- Mayor Pro tem Gutjahr asked do we restrict the smoking outside of public buildings.
- Manager Moore said we could restrict them to smoking within 25' from the building.
- Attorney DeFillippo said it would be similar restriction to alcohol areas, you cannot drink in public places, however there are proposed indoor properties; there would need to be adequate restrictions on odors and continued the discussion.
- Councilor Winters asked about having restrictions of cigarette smokers outside of the building.
- Attorney DeFillippo explained yes, we can do that, and we can restrict where cannabis can be consumed.
- Vice Chair Thompson asked about driving from smoking places to their homes.
- Attorney DeFillippo explained it would be the same as a DWI and Colorado has developed an effective way for testing.
- Vice Chair Thompson said a couple of thoughts and said do we anticipate that the primary people that would be interested in these licenses, such as students, consumer company, or tobacco companies; regarding vertical growing, process, and have retail at one location, are there any municipalities that have separated that.
- Attorney DeFillippo said the vertical creation is by State statute, a municipality cannot restrict State statutes, a requirement can be put in place regarding the vertical implementation, has to meet all 3 requirements but cannot restrict the ability to be a vertical creation.
- Vice Chair Thompson asked regarding if some of these companies are backed by big companies, they will look for the municipalities with the easiest restrictions and asked what kind of restrictions would be putting in place.
- Attorney DeFillippo said that is the competing issue that every municipality is looking at, revenue vs. the difficulties it will bring, and the discussion continued.
- Mr. Rubin said have we considered Dollar General or other stores selling tobacco products to be allowed to sell vaping products with THC in them.
- Attorney DeFillippo said there is something in place that would require a state permit and an ordinance to be able to sell that. The discussion continued.
- Chair Scroggins asked if this is also age 21 for the purchase of marijuana.
- Attorney DeFillippo said yes.
- Manager Moore asked if this was mixed with other illegal substance, is there a differentiation between cannabis and illegal substances.
- Attorney DeFillippo said you would have to regulate cannabis against the illegal substance and the discussion continued.

- Councilor Winters said regarding the Taos setup they are mixing usages of land.
- Attorney DeFillippo said their ordinance has a land regulation and zoning built in and continued the discussion.
- Mr. Gordon asked where we would consider setting up an area for adult zones.
- Attorney DeFillippo said we can consider an adult area with a dispensary and consumption lounges, that would restrict times and odors and other aspects.
- Secretary Adair asked regarding an odor coming from a dispensary, what would be the difference from a restaurant.
- Attorney DeFillippo said that can be difficult to regulate to regulate odors.
- Councilor Brown asked what about vending machine restrictions.
- Attorney DeFillippo said that is something to address but does not know if we can address that right now. The discussion continued.
- Mayor Pro tem Gutjahr explained about a situation a couple of years ago regarding the odor.
- Attorney DeFillippo said you cannot restrict a person to smoke in their home, but you can make restrictions on smoking outside of your house or having proper ventilation, although it would be very hard to enforce.
- Secretary Adair asked if Colorado has a requirement for security.
- Attorney DeFillippo said he does not think it is a requirement, but the reason for that is banking issues. The discussion continued.
- Mr. Gordon asked would credit card purchases be allowed.
- Attorney DeFillippo said yes you can use a credit card but does not know what the regulations on the company for making a deposit for those purchases into a federal bank.
- Mr. Gordon said he would be a person that would like to see the ordinance very restrictive as a former police officer.
- The group decided to have a place holder to satisfy the requirement and then decide what is needed. The discussion continued.
- Chair Scroggins asked if Valencia County has passed an ordinance.
- Mayor Pro tem Gutjahr said yes it has been passed and it looks very extensive.
- Vice Chair Thompson asked about 90 days out we may look at modifying the nuisance ordinance to add some sign ordinance restrictions. The discussion continued.
- Manager Moore said he would like to establish the working dates, of August 2nd & 4th at 5:30, the 1st read at the City Council meeting on the 9th, final reading and public hearing on the 23rd to pass ordinance.

### ***Adjourn***

The City Council special workshop was adjourned at 6:33 pm

Respectfully submitted,

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Elizabeth (Lisa) Adair, Municipal Clerk  
(Transcribed by Amy L. Lopez, Deputy Clerk)

Date: \_\_\_\_\_

Approved:

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Mark Gwinn,  
Mayor

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Joshua Ramsell,  
Mayor Pro-tem/Councilor

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Bill Brown,  
Councilor

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Margaret (Peggy) Gutjahr,  
Councilor

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Jim Winters,  
Councilor