

**CITY OF NORTHGLENN
CITY COUNCIL MINUTES
June 10, 2010**

CALL TO ORDER

Mayor Downing called a regular meeting of the Northglenn City Council to order on Thursday, June 10, 2010 at 7:00 p.m. in the City Hall Council Chambers, 11701 Community Center Drive, Northglenn.

ROLL CALL

Present were: Mayor Downing, Council members Snetzinger, Paiz, Brown, Baker, Clyne, Carrico, Dodge, and Wieneke.

ABSENT

No one.

STAFF PRESENT

City Manager Simmons, City Attorney Hoffmann, and City Clerk Small.

**PLEDGE OF
ALLEGIANCE**

The Pledge of Allegiance was given.

**AGENDA ADDITIONS
AND DELETIONS:**

There were no additions or deletions to the agenda.

INTERVIEWS:

Dwight Kimsey

Mr. Dwight Kimsey came forward to be interviewed by Council for a position on the Citizens' Affairs Board. Mr. Kimsey provided information about serving on other boards and answered questions about his management experience.

Mildred Griffin

Ms. Mildred "Midge" Griffin came forward to be interviewed by Council for a position on the Citizens' Affairs Board. Ms. Griffin provided information on her background and answered questions about her interest in serving on the Board.

**PUBLIC INVITED
TO BE HEARD**

Mayor Downing called for any person wishing to address City Council on any subject not set for public hearing to come forward.

Dr. Sean Reif, Ward I, spoke about limiting debate on questions and stated that he feels every member of the community should be allowed a reasonable and equal opportunity to be heard at meetings.

Mr. Chris DeMay, Parks and Recreation Advisory Board member, stated the entire Board feels it is important to keep the Recreation Center open, and reported that the Board had made the following four recommendations at their last meeting regarding the Recreation Center:

1. Use of Conservation Trust Funds to meet the Fire District's life safety issues;
2. Take advantage of the State's energy program to make the building more energy efficient by completing items identified in the energy audit;
3. Develop a long-term capital improvement plan to address issues not identified by the Fire District or the energy audit; and
4. After the long-term capital improvement plan is prepared, put a question to the voters in November asking for an extension of the 0.5% sales tax set to expire in December 2010, with the sales tax extension ranging from 0.25% to 0.5% depending on the cost of improvements.

FINANCIAL REPORT:

April 2010 Update

Mr. Shawn Cordsen, Finance Director, provided a financial report for the period ending April 30, 2010. Mr. Cordsen spoke about revenue and expenditures for the General Fund, Water and Wastewater Fund, Stormwater Fund, and Sanitation Fund. Mr. Cordsen also reported on cash reserves and the city's investment portfolio.

CONSENT AGENDA
MOTION TO PASS

Mayor Downing **MOVED** and it was **SECONDED** by Council member Clyne to approve the consent agenda.

MOTION PASSED

There was no discussion and the motion **PASSED**.

IN FAVOR - Downing, Snetzinger, Paiz, Brown, Baker, Clyne, Carrico, Dodge, Wieneke.

OPPOSED - No one.

ABSENT - No one.

The following item was approved on the consent agenda:

- Minutes of the May 27, 2010 Regular Meeting

PUBLIC HEARINGS:

Medical Marijuana
Dispensary Permit Appeal
of Decision – The Green
Solution, LLC

Mayor Downing read an opening statement for the public hearing on the appeal of the decision on the Medical Marijuana Dispensary Permit application filed by The Green Solution, LLC.

City Attorney Hoffmann provided a summary of the appeal, the hearing procedure to be used, and the deliberation and decision process for City Council.

Mr. Eric Speidell, The Green Solution, LLC, provided sworn testimony about his background, business experience, and desire to operate a medical marijuana dispensary in Northglenn. Mr. Speidell stated he feels the restrictions in Ordinance No. 1550 as interpreted prevent dispensaries from operating within the City, and asked Council for a compromise based on his interpretation of the ordinance.

Mr. Bob Hoban, counsel for the applicant, stated that he believes the decision to deny the Medical Marijuana Dispensary Permit application for The Green Solution was based solely on an incorrect interpretation of language in the ordinance. Mr. Hoban submitted three documents for Council's review: page 11 of Ordinance No. 1550 with text highlighted in Section 18-14-24(b); map of the dispensary location; and a copy of the definition of "portion" from the Merriam-Webster online dictionary.

Mr. Hoban stated that the proposed dispensary location is not within 200 feet of a single or multi-family residential building, and stated the senior care facility nearby consists of multiple individuals and not families. Mr. Hoban stated that he believes the word "portion" as used in Section 18-14-24(b) contemplates an individual unit housing the dispensary as opposed to an entire building. Mr. Hoban stated that his client has demonstrated an ability to serve the community and his interpretation of the rules is consistent with Council's intent. Mr. Hoban also spoke about the potential sales tax revenue the dispensary could provide to the City and requested Council to issue a conditional approval of the permit application at a minimum.

There were questions from Council regarding multi-family housing located within the distance requirement, the definition of "family," and the interpretation of the ordinance regarding measurement.

Mr. Travis Reynolds, City of Northglenn Senior Planner, provided sworn testimony regarding the method of calculating measurements pertaining to the application. Mr. Reynolds stated that the distances were computed by direct measurement from the nearest property line of the land used for residential uses to the nearest portion of the building housing the medical marijuana dispensary using a straight line in accordance with Ordinance No. 1550. Mr. Reynolds stated there is a property currently used as an assisted living facility, which is zoned Residential R-3 within 200 feet of the building that would house the proposed medical marijuana dispensary. Mr. Reynolds distributed a map detailing the location of the proposed dispensary and the constrained area.

Mr. Hoban provided rebuttal evidence and stated that he feels the use as opposed to the zoning of locations should be the deciding factor in this case. Mr. Hoban stated that based on the definition of "family," the assisted living facility cannot be deemed a single or multi-family residential use. Mr. Hoban also spoke about the possibility of a variance if Council should choose to issue a conditional approval of the permit application, and the installation of a separation or wall between the buildings.

Mr. Speidell thanked City Council and expressed his desire to serve medical marijuana patients in the community. Mr. Speidell stated that he feels the location of the proposed dispensary does not conflict with Council's intent of prohibiting dispensaries near children and families, and stated that the current distance requirements prevent dispensaries from locating within the City.

There were questions from Council about the applicant's decision to submit the permit application for a location within a constrained area and the possibility of locating the dispensary in another community.

Mr. Speidell spoke about his desire to do business in Northglenn, moratoriums imposed by surrounding municipalities on medical marijuana dispensaries, and potential revenue the business could bring to the City.

City Attorney Hoffmann asked Mr. Hoban about the basis of his statement regarding a policy or opinion of staff that it is the use and not the zoning of a property that is a determining factor for constrained areas.

Mr. Hoban stated that he was informed by City staff that single and multi-family residential is based on use and not strictly based on zoning.

Mr. Reynolds stated that he did not recall his statements in the conversation described by Mr. Hoban, and spoke about the vagueness of the ordinance concerning uses by right under R-3 zoning.

There were questions from Council about other locations within the City that are available for medical marijuana dispensaries.

Mr. Reynolds stated there are a number of locations within the City that are available for medical marijuana dispensaries, but noted that the landlords must agree to the use of the site as a dispensary. Mr. Reynolds spoke about information that is given to prospective applicants when they inquire about operating a dispensary within the City.

Mr. Speidell provided testimony about his contact with landlords in Northglenn and their unwillingness to lease sites for use as medical marijuana dispensaries. Mr. Speidell reiterated that the unit located at 470 Malley Drive is not within 200 feet of a constrained area by his interpretation of the ordinance.

There were questions from Council about zoning or code restrictions in place for the type of building from which marijuana can be sold, and the applicant's original interpretation of the Code and expectation for a variance.

City Attorney Hoffmann stated that when the licensing ordinance was adopted, it treated medical marijuana dispensaries as retail businesses and did not create specific zoning districts for medical marijuana dispensaries.

Mr. Reynolds noted that in the review of the application, the zoning was approved for the dispensary, but the distance measurement was not.

Mr. Speidell stated he originally interpreted the Code as he has stated tonight.

Mr. Hoban spoke about Council having the authority to impose final decisions on staff's interpretation of the Code.

City Attorney Hoffmann addressed the distance limitations and read an excerpt from Regulation 47-326 of the Colorado Liquor Code regarding measurement of distances. City Attorney Hoffmann stated this is the origin of the language used in the medical marijuana dispensary ordinance. City Attorney Hoffmann stated the language has been interpreted in many court cases regarding computation of measurements, and has been interpreted to mean measuring from the nearest property line to the nearest portion of the building, not from unit to unit.

There were questions from Council about the number of patients that would be served by the dispensary.

Mr. Speidell stated that he currently has over 100 patients, and anticipates serving 1,000 patients or more at the dispensary.

There was discussion about Council's intent when developing the distance requirements and it was noted that that strip malls and retail structures such as the Marketplace had not been discussed. It was stated that Council's intent was to prevent the dispensing of medical

marijuana within set distances of certain uses, and the proposed location is not within such an area.

There were questions from Council about the possibility of a husband and wife living in the assisted living facility and whether or not individuals in the facility consider that their residence.

Mr. Hoban stated that he had inquired with the manager of the facility and was told there are no families living in the facility.

MOTION TO PASS

Council member Wieneke **MOVED** and it was **SECONDED** by Council member Clyne to direct that findings of fact be drafted reversing the City Manager's decision based on the interpretation of the ordinance.

MOTION PASSED

There was no discussion and the motion **PASSED**.

IN FAVOR - Downing, Snetzinger, Paiz, Brown, Baker, Clyne, Carrico, Wieneke.

OPPOSED - Dodge.

ABSENT - No one.

CB-1719 – Industrial
Pretreatment Program

City Clerk Small read the title.

Mayor Downing invited anyone wishing to speak either “for” or “against” CB-1719 to come forward.

Dr. Sean Reif, Ward I, spoke against CB-1719. Dr. Reif expressed concern about the City's authority to inspect properties according to Section 16-15-24, required maintenance, and publication requirements for non-compliance. Dr. Reif also stated that he feels the civil penalties are too high and spoke about criminal prosecution and the conduct of show cause hearings as contained in the proposed ordinance. Dr. Reif stated that he feels the ordinance should be referred to a standing board or commission for review.

Mr. Bob McCoy spoke about CB-1719 and distributed a proposed amendment to Section 16-15-34(e) of the ordinance. Mr. McCoy stated that he feels the ordinance removes Council from the oversight needed, and stated the ordinance is subjective and could potentially discourage businesses from locating within the City. Mr. McCoy stated he feels City Council should have the authority to reverse or modify decisions relating to the program and asked Council to consider amending Section 16-15-34(e) as suggested.

Mr. Robert Hurt spoke against CB-1719. Mr. Hurt inquired about the number of grease traps in the City and the availability of staff to

evaluate the program. Mr. Hurt stated that he feels the ordinance should be failed tonight and revised.

Mr. David Willett, Public Works Director, stated that staff has partnered with Council and the commercial and industrial community in the preparation of CB-1719. Mr. Willett stated that the enforcement portion of the ordinance provides the City with options for enforcing the policy, and stated that he feels the proposed ordinance is business-friendly.

Mayor Downing called for any other person wishing to speak either “for” or “against” CB-1719. No one came forward and the public hearing was declared closed.

ORDINANCES:

Second Reading

CB-1719 – Industrial Pretreatment Program

MOTION TO PASS

Mayor Downing **MOVED** and it was **SECONDED** by Council member Clyne to approve CB-1719 on second reading.

**FRIENDLY
AMENDMENT**

A friendly amendment was accepted to revise Section 16-15-34(e) to read: “The City Council shall deliberate regarding the evidence presented at such hearing in executive session. The City Council may affirm, reverse, or modify the Director’s decision, determination, condition, or requirement based upon evidence presented on the record at the hearing.”

MOTION PASSED

There was discussion and the motion including the friendly amendment **PASSED**.

IN FAVOR - Downing, Snetzinger, Paiz, Brown, Baker, Clyne, Carrico, Dodge, Wieneke.

OPPOSED - No one.

ABSENT - No one.

ORDINANCES:

First Reading

CB-1720 – Transfer of Appropriations – VALE Grant Awards

City Clerk Small read the title.

MOTION TO PASS

Council member Paiz **MOVED** and it was **SECONDED** by Council member Carrico to approve CB-1720 on first reading.

MOTION PASSED

There was no discussion and the motion **PASSED**.

IN FAVOR - Downing, Snetzinger, Paiz, Brown, Baker, Clyne,
Carrico, Dodge, Wieneke.

OPPOSED - No one.

ABSENT - No one.

CB-1721 – Medical
Marijuana Regulations

City Clerk Small read the title.

MOTION TO PASS

Council member Downing **MOVED** and it was **SECONDED** by
Council member Dodge to approve CB-1721 on first reading.

**FRIENDLY
AMENDMENT**

A friendly amendment was accepted to reinsert Section 18-14-24 –
Prohibited Locations; Permanent Location Required.

MOTION PASSED

There was discussion and the motion including the friendly
amendment **PASSED**.

IN FAVOR - Downing, Snetzinger, Paiz, Brown, Baker, Clyne,
Dodge, Wieneke.

OPPOSED - Carrico.

ABSENT - No one.

CB-1722 – Rezoning of
9777 Fred Drive from
R-1-B to Planned Unit
Development PUD

City Clerk Small read the title.

MOTION TO PASS

Council member Downing **MOVED** and it was **SECONDED** by
Council member Carrico to approve CB-1722 on first reading.

MOTION PASSED

There was discussion and the motion **PASSED**.

IN FAVOR - Downing, Snetzinger, Paiz, Brown, Clyne, Carrico,
Dodge.

OPPOSED - Baker, Wieneke.

ABSENT - No one.

RECESS:

The City Council meeting recessed at 9:04 p.m.

RECONVENE:

The City Council meeting reconvened at 9:19 p.m.

RESOLUTIONS:

CR-89 – VALE Grant
Acceptance

City Clerk Small read the title.

MOTION TO PASS

Council member Clyne **MOVED** and it was **SECONDED** by
Council member Dodge to approve CR-89.

MOTION PASSED

There was no discussion and the motion **PASSED**.
IN FAVOR - Downing, Snetzinger, Paiz, Brown, Baker, Clyne,
Carrico, Dodge, Wieneke.
OPPOSED - No one.
ABSENT - No one.

CR-90 – Public
Comment Policy

City Clerk Small read the title.

MOTION TO PASS

Mayor Downing **MOVED** and it was **SECONDED** by Council member Brown to approve CR-90.

MOTION PASSED

There was no discussion and the motion **PASSED**.
IN FAVOR - Downing, Snetzinger, Paiz, Brown, Baker, Clyne,
Carrico, Dodge, Wieneke.
OPPOSED - No one.
ABSENT - No one.

CR-91 – Setting Public
Hearing for CB-1720;
CR-92 – Setting Public
Hearing for CB-1721

MOTION TO PASS

Mayor Downing **MOVED** and it was **SECONDED** by Council member Snetzinger to approve CR-91 and CR-92.

MOTION PASSED

There was discussion and the motion **PASSED**.
IN FAVOR - Downing, Snetzinger, Paiz, Brown, Baker, Clyne,
Carrico, Dodge, Wieneke.
OPPOSED - No one.
ABSENT - No one.

DISCUSSION ITEMS:

2010 Ballot Initiatives –
Amendments 60 & 61,
Proposition 101

City Attorney Hoffmann stated that the ballot titles for Amendments 60 and 61 and Proposition 101 have been set and therefore the Fair Campaign Practices Act now applies to the ballot questions. There was brief discussion about the potential impact of the ballot initiatives and it was the consensus of Council to have staff prepare resolutions in opposition of the three ballot questions.

Options for 0.5% Sales
Tax Scheduled to Expire
December 31, 2010

City Manager Simmons stated there are two 0.5% sales taxes set to expire on December 31, 2010, and provided information on the history of the taxes and their uses. City Manager Simmons provided

information about options for extending the taxes, restrictions that could be imposed on the taxes, and historical information regarding Recreation Center improvements.

There was discussion about the number of ballot questions presented, receiving additional information on options for the use of the sales taxes if extended, and the options presented.

City Manager Simmons stated that staff recommends using the unencumbered fund balance in the Conservation Trust Fund to complete the code essential improvements to the Recreation Center and to ask voters to extend the 0.5% sales tax on non-food items on the November ballot to fund the capital improvements program.

There was discussion about quantifying the capital improvements projects, funding water and wastewater projects with rate increases, and information provided by the Red Oaks study regarding funding capital improvements. There was discussion about specifying the use of sales tax revenue in a ballot question, establishing an expiration date for the tax extension if it is designated for Recreation Center improvements, and the total funding needed to repair the Recreation Center.

Ms. Amanda Peterson, Parks, Recreation and Cultural Services Director, provided information about the type of parks and recreation projects that funding from the Conservation Trust Fund can be used to complete. Ms. Peterson also provided information on the five-year capital improvements projects plan and consideration of funding projects not related to the Recreation Center repairs.

There was discussion regarding use of the Conservation Trust Fund revenue, the need to increase sales tax revenue for other uses such as economic development projects, and obtaining grant funding for Recreation Center improvements. It was stated that a resolution would be prepared for the next meeting regarding the use of the Conservation Trust Fund unencumbered fund balance for Recreation Center improvements, and a subsequent discussion regarding the extension of the sales tax would be scheduled.

COMMUNICATIONS:

Council

Council member Wieneke stated that Attachment A to the Parks Master Plan and the 2010 Work Plan and Goals need to be scheduled for adoption by Council.

Council member Clyne reported that the Finance Committee had met with the auditor to review the annual financial report, and noted that

Mr. Cordsen would be distributing a copy of the management letter to Council in advance of the meeting next week.

Mayor Downing reported that nominations are currently being sought by the Community Reach Center for the Mary Ciancio Distinguished Service Award. Mayor Downing also reported that the Community Foundation would be hosting a four mile race on July 4, 2010 starting at E.B. Rains, Jr. Memorial Park, and asked if Council would be interested in participating in the event.

Council member Paiz reported on the Rocky Flats Stewardship Council and the continued work on the Department of Energy's environmental assessment process regarding the breaching of dams. Council member Paiz reported that a meeting would be held on Monday for area mayors to meet with the executive director of the Colorado Department of Public Health and Environment (CDPHE), and also spoke about a special meeting that would be held in August. Council member Paiz also reported that she and Council member Dodge would be hosting a Ward I meeting on Monday, June 14, 2010 at 6:30 p.m. at the Northglenn Christian Church.

Council member Snetzinger provided information about upcoming street closures for the Huron Street Reconstruction project.

Staff

City Manager Simmons reviewed the agenda items for the June 17, 2010 special meeting. City Manager Simmons also provided information about the status of the cooperative agreement between City Council and the Northglenn Urban Renewal Authority (NURA), and reminded everyone that the June 24, 2010 regular Council meeting had been cancelled due to attendance at the Colorado Municipal League (CML) conference.

City Attorney Hoffmann reported that Governor Ritter had signed HB 1284 regarding medical marijuana and noted that the legislation would be effective July 1, 2010.

PUBLIC INVITED
TO BE HEARD

Mayor Downing invited any member of the public wishing to speak on any subject to come forward.

Dr. Sean Reif, Ward I, spoke about the conduct of meetings including the use of parliamentary procedure, planning meetings, and the duties of the presiding officer.

Mr. Robert Hurt spoke about collecting taxes from medical marijuana dispensaries, controlling the distribution of marijuana in the City, and

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stated he feels the proposed ordinance on medical marijuana regulations needs to be improved.

ADJOURNMENT

The City Council meeting adjourned at 10:14 p.m.

JOHANNA SMALL, CMC
City Clerk

JOYCE DOWNING
Mayor