

The Cannabis Revenue Committee, Trustees Gynee Thomassen and Thomas Huerkamp are recommending the Board of Trustees take the following action regarding possible revenue from the licensing of various cannabis licenses provided for in Colorado State Law. Everyone should be aware that the Committee was charged only with the task of looking at possible revenues from application fees, renewal fees and impact fees the Town could apply along with allowable taxation as set forth in State Statutes.

The Committee is not rendering opinion or judgment regarding allowing any type of cannabis licenses that should be allowed or disallowed in Orchard City.

These recommendations are based on our report given to the Board and are a matter of public record as are these suggested actions.

The Town should start the process of repealing the Ordinances of 2011 and 2013 prohibiting any type of licensed marijuana businesses. This will not make it legal to do so but simply removes the impediment of being illegal. Simultaneously the Board should enact a moratorium on such licensing through May 15, 2018. This would allow for development of required ballot measure for the Municipal Election in April, 2018. Also three of the six Trustee seats will be on that election ballot.

In the next few months the Committee should continue its work in examining in depth the revenue possibilities of other State approved license as they did in their report on cultivation licenses.

Since the Board of Trustee have a fiduciary duty to hear public input from the residents of Orchard City whether opponents or proponents as well as those unsure or needing more information. The Committee is recommending that the Committee host a series of public sessions to hear from any citizen of the Town and too answer any questions or provide information and resources to help better understand the cannabis industry. Since the Committee will have extensive knowledge not necessarily known by the other Trustees, the Mayor and Town staff it will be more efficient to have the Committee do this and then generate a report for the full Board. These sessions should be widely advertised and the Committee should stagger times to accommodate availability to all citizens.

By the end of the year the Board of Trustees should develop and publicize information on what licensing they would approve along with restrictions and fees the Town would enforce above and beyond those required by the State. State law requires that if the Board were to proceed with cannabis licensing that a ballot measure asking voters SHALL A TAX INCREASE - be approved. This is the reason the Committee feels existing ordinances should be repealed. How can you ask voters to approve a tax on something the Town presently deems to be illegal?

The measure would spell out what kind of licenses and allowable tax would be imposed. It would also allow voters to instruct the Board to create a new enterprise fund for the Town (not subject to TABOR income levels). The Committee is recommending a title for the fund for Public Health and Safety to include road maintenance and construction.

This would like be a single ballot question or two at most depending on licenses to be allowed. This should be done in early 2018 in order to give voters plenty of time to understand the question they are being asked to approve or disapproved. By placing the moratorium through May 15, 2018 the newly elected Board will be in place to deal with the election outcome.

The Committee is ready to provide some suggestions regarding cultivation license. No outdoor cultivation allowed as there are too many issues with offensive odors, security and the danger of cross pollination from the many legal and illegal grows already in the area. Also no areas where access is off Colorado Highway 65 and establishing a minimum acreage to reduce unwanted intrusion on neighboring properties should be enforced.

This is a draft report from the Cannabis Revenue Committee for the Town of Orchard City, Colorado. The committee as appointed by the Mayor consists of Trustees Gynee Thomassen and Thomas Huerkamp.

As a first step the Committee met with Delta County Sheriff Fred McKee as he has been an outspoken opponent of allowing any of legalized and licensed cannabis operations in all areas of the County including municipalities. Since Orchard City contracts with his department for law enforcement services the committee felt a need to determine if it might cause termination of that contract. The Sheriff assured us it would not, but might require a greater cost depending on type of licenses issued by the Town. He also informed us that the contract price would be going up with or without cannabis in 2018.

He also suggested meeting with the Colorado Dept. of Revenue enforcement officer responsible for a large portion of western Colorado. The Sheriff did arrange that meeting at a later date and the Committee spent over two hours with that official and the Sheriff sat in as well.

Next the Committee studied in detail the two State Statutes passed by the Legislature to implement the Constitutional Amendments approved by the voters of the State. The first was titled the Medical Marijuana Bill and the second dealing with recreational marijuana titled Retail Marijuana Bill. The two bills have areas of overlap and the recreational law expanded the licensing categories and requirements.

There are currently six types of licenses with each license being separate and independent of the others.

1 - retail license which could be either medical or recreational. Lowercase retail can refer to recreational or medical retail dispensaries; capital "R" Retail refers to recreational licenses only. Licensees holding both medical and Retail license must have separate point of sale systems and depending on circumstances may need to have separate entrances, point of sale systems and physical space.

2 - cultivation, which can include either outdoor grows or contained "greenhouse" structures. These licensees can produce both medical and recreational harvested product including water based solvent solutions. Cultivate licensees can only sell product to licensed Retail and medical dispensaries or manufacturing license holders. Sales to the public are prohibited.

3 – manufacturing, these are frequently held by the same party as the cultivation license and housed on/in the same facility. This license can only sell to either medical dispensaries or recreational Retail licensees; sale from manufacturing facilities to the public is prohibited.

4 - testing, all cultivation production and manufactured products, smoking, edibles, oils, lotions, vaporizing and salves must undergo testing by an unrelated laboratory in accordance with extensive regulation by the Department of Revenue/Marijuana Enforcement Division and Colorado Dept. of Health and Environment.

5 - transport, licensed cultivators and manufacturers generally may transport products by badge carrying employees. In order for a third party to transport product a license is required and the operation of this license is extremely regulated and monitored by the State.

6 - marijuana operator, this new license went into effect this year and is subject to ongoing State regulatory work.

Starting with the cultivation license there are three tiers under State law. Tier one allows for cultivation of up to 1,200 plants, tier two up to 4,800 plants and tier three 8,400 plants. All plants in licensed cultivation are assigned a specific serial number which must accompany the harvested product through all phases so that any problem can be traced back to the grower, the strain and identifies water quality and any chemicals used in the cultivation.

It is the opinion of the Committee that the cannabis industry is the most regulated industry in the State of Colorado with significant compliance requirements from the Colorado Dept. of Health and Environment, Colorado Dept. of Revenue, Colorado Bureau of Investigation and all local law enforcement. This regulation far exceeds any of the liquor industry at either retail or manufacturing.

No town or city may issue any Retail license to anyone who has not applied to the State of Colorado and been approved; medical licenses begin at the local level before going to the State level. These processes may go on simultaneously but the municipal license cannot be issued without a State license being approved.

Licenses can be issued to individuals, legal partnerships and corporations. Every investor/owner must pass a fingerprint criminal background check. An individual with certain criminal history (e.g. a felony conviction) is not eligible to own or invest or be employed in capacity and the restrictions are even higher for previous drug related crimes. Even non-profit institutional investors such as education, public employee pension and religious organizations their registered agent must pass the same background check.

Committee member Huerkamp has spoken with various Mayors, Trustees, Town Clerks and Administrators in seven rural communities that have issued some or all of the licenses, gathering input of do's and don'ts they have experienced, problems and what might have been done differently by the municipality in issuing licenses. The committee has gathered direct input from established cannabis license holders and has gotten legal advice pertinent to studying the possible revenue stream the various cannabis licenses could provide to the Town. It has gathered information on how revenues are being utilized by the Towns, the various amounts, and has requested input on impacts in the Towns, both positive and negative. The committee has studied a number of recent publications, books and reports regarding the topic including a just released Time Magazine Special Edition titled "Marijuana Goes Main Street" containing no ads in 100 pages as it examines all issues associated with cannabis.

To briefly cover the process of licensing the Committee chose to focus on one basic license: cultivate. This process and varying fees are the same for all other licenses. The first step is to submit a detailed application to the State and the application must be accompanied with a \$5,000 fee. This money is deposited into what the State Statute identifies as the Marijuana Cash Fund. If the State approves the license and the Town does likewise \$2,500 of that goes to the Town. Just as the State imposes extensive regulations and fees the Town can do likewise. The Committee learned that the Town application fees range from \$2,000 to \$5,000 per license with each of the six license categories being a separate license and fee. All of the background checks detailed above applies in the Town as well as the State.

The Committee learned there does not seem to be an increase in crime where legally licensed cannabis licenses of any kind have been issued with the single exception of Pueblo. For example in 2014 violent and property crimes in Denver decreased. In Washington State in 2014 their State Patrol eradication team removed 609,000 illegal plants on public lands. In 2016 that same team only found 39,000 illegal plants. The situation in Pueblo, which was referenced by Sheriff McKee in addressing his concerns about crime increase, as explained by the Revenue Dept. officer appears to have resulted in authorizing 12 retail recreational licenses at one time. Two never opened their doors and four have failed financially. As those operations were failing they lowered prices to try and survive. This opened the doors to a criminal element that was buying at lower prices and then illegally selling on the streets, especially to persons under 21 years of age

None of the towns contacted expressed any regrets about allowing the cannabis industry into their communities. There were no reports of problems of significance and all said it had been a positive influence on the local economy. Some expressed regret that they did not allow additional types and numbers of licenses. One very small community reported two cultivate and manufacturing licenses and one each medical retail and one recreational retail. They were unhappy that the town boundaries were so small that they did not have room for more.

In all cases towns reported that the wages paid to workers in the cannabis industry was above the previous average for each town. Income from the cannabis industry has allowed the towns to make significant improvements. In one town with prior gravel streets all are now paved along with other improvements.

If Orchard City were to issue licenses for cultivate here is how the revenue flow would work. The law allows the local jurisdiction to collect a five percent excise tax on all production that would be sold wholesale to either a retail outlet or to a manufacturing license. Research has shown the highest quality production in a well run tier one cultivate would yield up to 500 pounds of product monthly. Up to 90 percent of that is currently bringing approximately \$30.00 per pound which would have a value of \$13,500 with a tax income \$675. The residual product would bring approximately \$10 per pound bring another \$25.00 per month in excise tax for a total of \$700 per month times 12 for a total of \$8,400 annually.

Moving up to a tier three cultivate the numbers change to 2,000 pounds per month for the 90 percent bringing in approximately \$54,000 and the excise tax would be \$2,700 per month. The 10 percent of product would have a value of \$12,000 bring tax revenue of \$600 per month for a total tax of \$3,300 per month times 12 for a yearly total of approximately \$40,000.

The other revenues that Orchard City can collect are an application fee. The State collects \$5,000 with the application and if the local jurisdiction grants a license \$2,500 of that comes to the Town. In discussions with other rural communities we learned license applications range from \$2,000 to \$5,000 with the majority being in the \$4,000 to \$5,000 range. The Towns then can setup an annual renewal process very similar to the ones used for liquor licensing. The fees for the annual renewal range from \$1,000 to \$5,000 with approximately \$2,500 being a norm.

The Town can assess impact fees one time or on an annual basis covering such possible impacts on roads, law enforcement and other issues of public health and safety. In some cases these fees are quite significant.

Other possible revenues would be these kinds of fees for each type of license with each requiring separate application and renewal fees along with similar impact fees.

Another impact could be created by instituting a special domestic water tap fee for these operations and a different rate structure. Well run grows need potable water and in some cases use massive amounts. This could relieve pressure on future water rate increases.

For purposes of starting the discussion and a recommended path forward the Committee only had time to investigate the revenues for the basic cultivation license as that seemed to fit Orchard City best and was in keeping with our agricultural heritage. The committee learned that even just the cultivation license can have significant economic growth within the area. A tier one would employ from 10 to 15 employees at wages well above the current average in Delta County. A tier three would employ as many as 100 people. This could add significant numbers to average household incomes.

Other short term economic benefits would be derived from construction or remodeling of facilities, security fencing and other security measure required by the State and Orchard City can impose requirements in addition. Access roads, water line installation and restrictive waste water requirements can also be established by the Town in addition to requirements of State agencies which would bring other short term dollars into the local economy.

