



Agenda Item Summary

MEETING DATE: June 10, 2024
SUBJECT: Citizens' Initiative Marijuana
PRESENTED BY: Mary Strutt, Administrative Services Director / Town Clerk

SUMMARY

At the May 28, 2024 Regular Meeting of the Board of Trustees, Autumn Todd and David Wilczynski spoke during public comment regarding an initiative to put a question on the November 5, 2024 ballot which would allow retail and medical marijuana in the Town of Mead. They requested that the Board consider drafting an ordinance and either adopting it outright or referring the question to the voters of Mead. Subsequently, Mr. Todd submitted a citizens' initiative to the Town Clerk's office for review on May 29, 2024.

Both recreational and medical marijuana sales and cultivation are prohibited in the Town of Mead. However, personal use and the ability to grow for personal or medical use are allowed in accordance with state statute. The matter of legalizing marijuana sales was put before the voters of Mead in 2019 by the Board of Trustees which failed 662 For / 1046 Against; and in 2021 by a Citizens' Initiative which again failed 657 For / 1006 Against. The 2021 initiative was brought forward by Mr. Todd and his team who submitted a petition with 217 valid signatures from registered electors in the Town of Mead. A minimum of 193 signatures was required to put the matter on the ballot.

HISTORY

Marijuana/cannabis for medical purposes has been legal in the state of Colorado since 2000 when Amendment 20 to the Colorado Constitution was approved by voters. The Town of Mead placed a moratorium on medical marijuana facilities in October 2009, but later approved and regulated medical marijuana dispensaries and grow facilities in the LI – Limited Industrial zoning district by Ordinance Nos. 662 and 663 which were adopted November 30, 2009. However, on March 14, 2011, these Ordinances were repealed and replaced by Ordinance No. 687, which prohibited the sale and cultivation of medical marijuana.

On November 6, 2012, voters in Colorado approved Amendment 64 (a citizens' initiative), which amended Article XVII of the Colorado Constitution. The Amendment allows the possession, use, display, purchase or transportation of marijuana and accessories. In addition, growing marijuana for personal use and cultivation for sale was also approved. Retail sales of marijuana across the state began January 1, 2014. In Mead, the Board of Trustees adopted Ordinance No. 722, on February 11, 2013, which prohibited the operation of marijuana cultivation facilities, product manufacturing facilities, testing facilities and retail stores in Town.

Nationally, Colorado and Washington were the first states to legalize the recreational use of marijuana. As of February 2024, similar legislation has passed in 24 states (plus the District of Columbia). In addition, the US Drug Enforcement Administration is currently preparing to downgrade the substance

drug classification of marijuana from a Schedule I drug to the less restrictive Schedule III. Within the state of Colorado, retail marijuana sales are permitted in 96 of 271 municipalities with several more being added each year. See the attached spreadsheet compiled by CML. Delivery of marijuana is also legal in Colorado and personal use and the ability to grow marijuana for personal use is allowed in Mead by state statute.

CITIZENS' INITIATIVE

The Citizens' Initiative process is a tool through which citizens can place proposed changes to laws on the ballot. Citizens have a right to follow this process and have their voice heard in lawmaking. The citizens' initiative process can be found in Colorado Revised Statute Title 31, Article 11. The process, in general terms, is:

- Citizens decide they want to pass a new law or amend existing law.
- Citizens write up an ordinance and a petition and submit it to the Clerk's office
- The Clerk reviews it as to form – i.e., does it meet all the requirements of the statute in 31-11-106. The form of the petition may be revised and resubmitted to the Clerk as many times as needed until it is approved.
- Once it is approved by the Clerk as to form, the petitioners have 180 days to obtain signatures of at least 5% of the registered voters and resubmit the petition.
- If they do not turn it back in, nothing happens. If they do, the Clerk reviews the petition, verifies signatures, and ensures that all statutory requirements are met.
- During this time, anyone may protest the petition for limited reasons. A protest hearing may be called. All of this follows strict timelines, according to state statute. The timelines are meant to allow due process to all concerned, but also to allow for a timely process.
- If there are not enough signatures, are other errors with the petition or if a protest prevails, the petition is deemed insufficient.
- If there are enough signatures and there is not a valid protest, the petition is deemed sufficient and is then presented to the Board of Trustees. At that time, the Board may either approve the ordinance of the petition and make a new law or they may set the ordinance for election. Once again there is a strict timeline for this.

FINANCIAL CONSIDERATIONS

If a citizens' initiative is successfully placed on the ballot after receiving the requisite number of signatures, the municipality is required, by statute, to hold an election and pay the full costs of the election. The petition representatives are not responsible for any of the costs. For this initiative, the representatives are targeting the November 5, 2024 coordinated election. Since the Town of Mead will be coordinating a Regular Municipal Election on that date, there are no anticipated additional charges from Weld County associated with the election.

Revenue: The petitioners have suggested that the marijuana industry could be a successful source of revenue for the Town of Mead. While it is difficult to predict the amount of revenue, if any, retail marijuana facilities within the Town of Mead would generate sales tax at 3% of sales. In addition, the state of Colorado does collect a 15% marijuana tax which is distributed to participating municipalities. Many municipalities also charge additional fees and/or an excise tax. Any tax would need to be approved by the voters of Mead at a Regular Municipal Election.

CURRENT STATUS / ACTION

In response to the petitioners' request of May 28, 2024 that the Board consider drafting an ordinance to either adopt marijuana outright or refer the matter to the voters, staff has identified three options for the Board of Trustees:

1. The Board of Trustees may direct staff to draft an ordinance repealing the Town's prohibition on marijuana sales facilities and adopt regulations for such facilities. This approach was recently taken in Brighton who adopted marijuana regulations after a previous ban.
2. The Board of Trustees may direct staff to draft an ordinance repealing the prohibition and creating regulations which the Board would refer to the Mead voters for the November 5, 2024 election. This approach would once again let the voters decide the matter but would allow the regulations to be drafted by the Town Attorney's office. Those regulations could include licensing requirements and restrictions on the number and/or size of facilities, the types of facilities and locations. The measure would be put on the November ballot and, if it passes, the regulations go into effect as outlined in the draft ordinance.
3. The Board may choose to take no action at this time and let the citizens' initiative process run its course. The petitioners have submitted a petition for review and have met with staff. The petitioners are confident in their ability to obtain the requisite number of signatures in the timeline required for the November election. Based on an estimated 5,000 registered voters currently in Mead, the number of petition signatures required would be 250. The deadline for submission is around mid-July to allow time for the sufficiency determination, protest period and referral to the ballot. If the measure is approved by the voters of the Town of Mead, then the regulations would go into effect as drafted by the petitioner. It was drafted along the lines of the state law and includes distance requirements from schools and licensing requirements. A few items lacking in the draft ordinance are zoning conditions and an appropriate timeline for implementation.

ATTACHMENTS

CML Marijuana Municipality List – (2024)
20240529 Citizens Initiative Petition – Marijuana