

**CROWLEY COUNTY BOARD OF COUNTY COMMISSIONERS
RECORD OF PROCEEDINGS**

September 6, 2016

CALL TO ORDER

Board of County Commissioners met in special session on September 6, 2016. The meeting was called to order by Chairman T. E. Allumbaugh at 8:30 a.m. with the following present:

T. E. Allumbaugh-----Chairman
Frank Grant-----Vice Chairman
Gary Gibson-----Member
Mike Apker-----Deputy Clerk to the Board

Audience: None

PUBLIC HEARING FOR ORDINANCES 2016-01; 2016-02; 2016-03

The board opened the public hearing on the proposed ordinances being considered for adoption on second and final reading.

The public hearing was to ascertain public comments on the aforementioned ordinances.

Chairman Allumbaugh read an opening statement, which follows, describing the rationale behind the board's proposed action:

Medical Marijuana was approved by the voters of the State of Colorado in the year 2000. Recreational (retail) Marijuana was approved by the voters of the State in the year 2012.

In 2011, Crowley County placed a moratorium against the cultivation of marijuana, pending state legislation, which we hoped would clarify the laws and procedures necessary to manage the marijuana industry. The moratorium was originally written for a period of six months. It was extended two times and in May of 2013, renewed for an indefinite period of time.

As voiced in a meeting held August 17, 2016, the school is having severe financial difficulties. Three of the four municipalities in Crowley County have been reported to be having trouble keeping up with their financial needs. The feedlot is currently operating at less than 50% capacity and news articles printed on August 18, 2016, reported the Federal Government's intent to discontinue using private prisons for federal prisoners. What this means for the CCA private prison at Olney Springs is unknown. All of this, coupled with the fact the Corrections Corporation of America (CCA) closed their private prison facility in Burlington in early July 2016, makes the financial future of Crowley County look somewhat bleak and certainly questionable.

In view of the above facts, the Commissioners of Crowley County strongly feel the county can no longer sit on the sidelines. The potential financial benefits of allowing State licensed and regulated commercial marijuana cultivation in Crowley County can provide revenues to the county far in excess of what the private prison contributes today, and far above any other realistic economic development opportunity. Once the commercial greenhouses have been built and are fully operational, the estimate of revenue to the county from the 5% excise tax is between \$2.0 and \$3.0 million annually.

Although commercial marijuana cultivation will be allowed in the county, sales to the public via marijuana stores, dispensaries or any other method will continue to be prohibited in the unincorporated areas of the county.

The 5% excise tax will only be charged on commercial marijuana produced in and exported from Crowley County. IF YOU AREN'T GROWING COMMERCIAL MARIJUANA, YOU WILL NOT PAY THIS EXCISE TAX.

Other tangible benefits:

Approximately 90 jobs
Building inspection fees & use taxes approx. \$50,000.
Increased assessed valuation. Each greenhouse costs approximately \$500,000 to build.
Property tax increase of approx. \$60,000 annually.
Increased sales tax on utilities of approx. \$45,000 annually.

Application and licensing fees payable to the county of approx. \$100,000 annually.
Annual license renewal fees of approx. \$50,000 annually.

Other Intangible Benefits:

Additional people moving to Crowley County should be good for our local businesses and the school.

An influx of people, due to the number of new jobs, should stimulate the housing market and property values.

As a result of the county's ability to regulate commercial marijuana grows, the county will have the right and ability to enforce the same rules and regulations on the many illegal commercial grows currently operating in the unincorporated areas of the county.

The board received no public comment either in writing or verbally.

The board closed the public hearing portion of the meeting.

The board opened in regular session

**RESOLUTION NO. 7060
APPROVAL SECOND READING ORDINANCE 2016-01; REPEALING PORTIONS OF ORDINANCE 2013-01 AND
RESOLUTION NO. 6367**

Motion by Grant, seconded by Gibson to approve Ordinance 2016-01 and adopt on second and final reading:

ORDINANCE NO. 2016-01

AN ORDINANCE REPEALING PORTIONS OF ORDINANCE NO. 2013-01 AND RESOLUTION NO. 6367 CONCERNING BANS ON MARIJUANA RELATED MATTERS

WHEREAS, the Board of County Commissioners of Crowley County, Colorado has previously passed Ordinance No. 2013-01; and

WHEREAS, the Board of County Commissioners has previously passed Resolution No. 6367; and

WHEREAS, the Board of County Commissioners desires to allow recreation marijuana cultivation, marijuana infusion facilities, and marijuana testing facilities of marijuana within the County;

BE IT THEREFORE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CROWLEY COUNTY, COLORADO THAT;

SECTION 1: That Ordinance No. 2013-01 is repealed in its entirety.

SECTION 2: That Resolution No. 6367 is repealed in its entirety.

SECTION 3: EFFECTIVE DATE: The Ordinance shall take effect immediately upon its passage.

INTRODUCED, PASSED on first reading this 22nd day of August, 2016 and to be published by title only.

ADOPTED, PASSED on second and final reading this 6th day of September, 2016

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Allumbaugh-----Aye
Gibson-----Aye
Grant-----Aye

**RESOLUTION NO. 7061
APPROVAL SECOND READING ORDINANCE 2016-03; ORDINANCE PROHIBITING ESTABLISHMENT OF MEDICAL
MARIJUANA CENTERS OR RETAIL MARIJUANA STORES IN UNINCORPORATED CROWLEY COUNTY, COLORADO**

Motion by Gibson, seconded by Grant to approve Ordinance 2016-03 and adopt on second and final reading:

ORDINANCE NO. 2016-03

AN ORDINANCE PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA CENTERS OR RETAIL MARIJUANA STORES IN THE UNINCORPORATED PORTIONS OF CROWLEY COUNTY

WHEREAS, the Board of County Commissioners ("Board") has the authority to exercise all County powers for the Unincorporated Areas of Crowley County pursuant to Section 30-11 103, C. R. S. ; and

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, "Personal Use and Regulation of Marijuana"; and

WHEREAS, said Amendment 64 shall become effective upon official declaration of the vote hereon by proclamation of the Governor, pursuant to Section 1(4) of Article V, of the Colo. Constitution; and

WHEREAS, Amendment 64 will add a new Section 16 to Article XVIII of the Colo. Constitution; and

WHEREAS, Amendment 64 defines a "Locality" in part in section 2(e) of Section 16 to include a county; and

WHEREAS, part 5(f) of Section 16 provides the following:

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR; AND

BE IT THEREFORE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CROWLEY COUNTY, COLORADO THAT;

SECTION 1: That a new Ordinance is enacted as follows:

A. Purpose. The purpose of this ordinance is to promote the general public welfare and safety throughout unincorporated Crowley County, Colorado by prohibiting the establishment of medical marijuana facilities or retail marijuana stores.

B. Definitions. Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colo. Constitution. These definitions include, but are not limited to the following:

(1) "MARIJUANA" OR "MARIJUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIJUANA CONCENTRATE. "MARIJUANA" OR "MARIJUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(2) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(3) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

C. It shall be unlawful for any person, entity, company or corporation to operate a retail marijuana store in the unincorporated areas of Crowley County.

D. It shall be unlawful for any person, entity, company or corporation to operate a medical marijuana center in the unincorporated areas of Crowley County.

E. Enforcement. This ordinance shall be enforced by the Crowley County Sheriff.

F. Disposition of Fine and Forfeitures. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this ordinance shall be paid into the treasury of Crowley County. The fine for a first offense and for any subsequent offense shall be one thousand dollars (\$1,000) per violation and each day shall be deemed a separate violation.

G. Surcharges. In addition to the fines and penalties prescribed in this ordinance, any person convicted of a violation of this ordinance shall be subject to the statutory surcharges of ten dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund, and (\$15.00) for the Colorado Traumatic Brain Injury Trust Fund. These surcharges shall be paid to the clerk of the court by each person convicted of violating this ordinance. The clerk shall transmit the monies to the respective funds in accordance with C.R.S. § 30-15-402(2).

H. Scope. This ordinance shall apply within the unincorporated territory of Crowley County and to all other areas designated herein. This ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.

I. Severability. If any part or parts of this ordinance are for any reason held to be invalid, such provision shall not affect the validity of the remaining portions of this ordinance. The Board of County Commissioners hereby declares that it would have passed this ordinance and each part or parts hereof, irrespective of the fact that any one part or parts be declared invalid.

J. Repeal. All ordinances and/or resolutions or parts of ordinances and/or resolutions inconsistent with provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

Section 2. EFFECTIVE DATE. In order to preserve the immediate health and safety of Crowley County and its residents, this ordinance shall take effect immediately upon its publication as provided in §30-15-405, C.R.S.

INTRODUCED, READ AND ADOPTED ON FIRST READING on August 22, 2016, and ordered published in the Ordway New Era.

INTRODUCED, PASSED on first reading this 22th day of August, 2016.

ADOPTED on second and final reading this 6th day of September, 2016.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Allumbaugh-----Aye
Gibson-----Aye
Grant-----Aye

RESOLUTION NO. 7062
APPROVAL SECOND READING ORDINANCE 2016-02; ORDINANCE CALLING FOR AN ELECTION AUTHORIZING A 5 PERCENT EXCISE TAX ON SALES OF UNPROCESSED COMMERCIAL MARIJUANA

Motion by Grant, seconded by Gibson to approve Ordinance 2016-02 and adopt on second and final reading:

ORDINANCE NO. 2016-02

AN ORDINANCE CALLING FOR AN ELECTION ON NOVEMBER 8, 2016 FOR THE IMPOSITION OF A 5% EXCISE TAX ON SALES OF UNPROCESSED COMMERCIAL MARIJUANA WITHIN THE COUNTY OF CROWLEY;

SETTING THE TITLE AND CONTENT OF THE BALLOT ISSUE FOR THE ELECTION; PROVIDING OTHER MATTERS AND RATIFYING ACTIONS PREVIOUSLY TAKEN RELATING THERETO; AND PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Board of County Commissioners of Crowley County, Colorado has determined that the public interest and the needs of the County require that provision be made for the authorization of marijuana cultivation facilities, marijuana infusion facilities, and marijuana testing facilities and for the imposition of a 5% excise tax on all marijuana sales within Crowley County with the revenues generated there from to be used as provided herein; and

WHEREAS, The Board of County Commissioners has determined to set the title and content of the ballot issue to be submitted at the election established by this Ordinance.

BE IT THEREFORE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CROWLEY COUNTY, COLORADO THAT;

SECTION 1: ELECTION DATE: An election shall be held on Tuesday, November 8, 2016 at which there shall be submitted to the eligible electors of the County a question as to authorizing the imposition of a 5% excise tax on all marijuana sales within Crowley County, which question shall be in substantially the form as set forth in Section 8 below.

SECTION 2: ELECTION PROCESS: The election shall be conducted as a general election in Crowley County in accordance with Articles 1 to 13 of Title 1, C.R.S. (the Uniform Election Code), and any required intergovernmental Agreements between the County and Crowley County.

SECTION 3: CERTIFICATION: No later than September 7, 2016, the County shall certify the ballot content to the County Clerk and the Notice of Election required by Article X, Section 20(3)(b) of Colorado Constitution.

SECTION 4: NOTICE: No later than September 23, 2016, the County shall submit to the County Clerk, in the form, if any, specified by the County Clerk, the Notice of Election required by Article X, Section 20 (3)(b) of the Colorado Constitution.

SECTION 5: AUTHORITY TO ACT: All acts required or permitted by the Uniform Election Code relevant to voting by early voters ballots, absentee ballot and emergency absentee ballots, which are to be performed by the designated election official, shall be performed by the County Clerk.

SECTION 6: COORDINATING ELECTION: The County Clerk shall cause a Notice of Election to be published in accordance with C.R.S. 1-5-205 as required by law.

SECTION 7: BALLOT ISSUE: For purposes of C.R.S. 1-11-203.5, this Ordinance shall serve to set the title and content of the ballot issue as is more fully set forth herein and the ballot title for such question shall be text of the question itself.

SECTION 8: TEXT: The text of the ballot shall be as follows:

Shall taxes be increased by \$100,000.00 in the first fiscal year by the voters imposing an excise tax of up to 5% on unprocessed commercial marijuana cultivation when unprocessed commercial marijuana is first sold or transferred by a marijuana cultivation facility, and the County be allowed to collect and spend such amounts as are raised annually thereafter with the tax revenues being used to fund improvements to County facilities, and to pay for the costs related to the regulation of marijuana as approved by the voters, with the resulting tax revenue being allowed to be collected and spent notwithstanding any limitations provided by law?

_____ Yes
_____ No

SECTION 9: VOTE RESULTS: If a majority of the votes cast on the ballot issue submitted at the election shall be in favor of such question, the County acting through the Board of County Commissioners shall be authorized to proceed with all the necessary

actions to impose a 5% excise tax on all commercial marijuana sales of unprocessed commercial marijuana within Crowley County.

SECTION 10: ACTIONS OF BOARD OF COUNTY COMMISSIONERS UPON PASSAGE: If a majority of the votes cast on the ballot issue submitted at the election shall be in favor of such question, the Board of County Commissioners shall:

A. Provide for the receipt and expenditure of revenues collected from the tax and the deposit of the same into the general fund as created by the Board of County Commissioners to implement this ordinance.

SECTION 11: ACTIONS OF BOARD OF COUNTY COMMISSIONERS UPON NON-PASSAGE: If a majority of the registered electors voting thereon fail to approve the 5% excise tax on all marijuana sales of unprocessed commercial marijuana within Crowley County, the question shall not be submitted again to such electors for a period of two years following the date of said election.

SECTION 12: USE OF MONEY COLLECTED:

A. All revenues and any expenditures shall be governed by the budgeting process of the Board of County Commissioners in accordance with its customary procedures.

B. Funds may be used for the general operating purpose of the County.

SECTION 13: ACTS PROHIBITED: No public moneys from any source shall be expended directly or indirectly to urge electors to vote in favor or against the imposition of a 5% excise tax on all marijuana sales of unprocessed commercial marijuana within Crowley County. Nothing in this paragraph shall be construed as prohibiting an elected official or County employee from expressing his personal opinion concerning the imposition of the lodging tax.

SECTION 14: PRIOR ACTIONS: All actions not inconsistent with the provisions of this Ordinance, heretofore taken by the member of the Board of County Commissioners and the officers and employees of the County, directed toward holding the purposes stated herein are hereby ratified, approved and confirmed.

SECTION 15: REPEALER: All prior acts, orders of ordinances, or parts thereof, by then County in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any act, order or ordinance, or part thereof, heretofore repealed.

SECTION 16: SEVERABILITY: If any section, paragraph, clause or provision of this Ordinance shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Ordinance, it being the intention that the various parts hereof are severable.

SECTION 17: EFFECTIVE DATE: The Ordinance shall take effect immediately upon its passage.

INTRODUCED, PASSED on first reading this 22rd day of August, 2016.

ADOPTED ON SECOND AND FINAL READING on this 6th day of September, 2016.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Allumbaugh-----Aye
Gibson-----Aye
Grant-----Aye

RESOLUTION NO. 7063

APPROVAL SPECIAL DISBURSEMENT, ROAD AND BRIDGE FUND, SEPTEMBER 6, 2016

Motion by Gibson, seconded by Grant to approve the special disbursement for Road and Bridge Fund and authorize transfer of funds in the following amount;

Road and Bridge Fund \$791.00

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Al Iumbaugh-----Aye

Gi bson-----Aye

Grant-----Aye

No further business appearing the meeting was recessed.
Minutes taken by Mike Apker.

ATTEST:

Lucile Nichols, County Clerk

Tobe Al Iumbaugh, Chairman