

Minutes
Cannabis Ordinance Workshop
September 20, 2022

The Village of Capitan Board of Trustees met in a Cannabis Ordinance Workshop on Tuesday, September 20, 2022 at the Village Hall in Capitan, New Mexico at 6:15 PM.

The meeting began at 6:16 PM.

Attendees: Mayor Lowrance – present, Trustee Kearns – present, Trustee Shearer – present via Zoom, Trustee Fraley – present, Trustee Hair – present. Al Cavazos – Village Clerk, Donna Weekley – Administrative Assistant, Angela Autrey – Deputy Clerk/Treasurer/Court Clerk/Human Resources Clerk, and Steve Osborn – Water Department Supervisor were also present. A list of others in attendance is attached.

Discussion: Trustee Hair shared she lived in Colorado when they approved their cannabis laws and thinks the Village needs to focus on protecting water rights. Mayor Lowrance explained there is a conflict between the State and State Engineers that is trying to be worked out. The Mayor pointed out the law says the Village can limit the number of sellers in the Village. Dan Bolin said the law says all establishments can be limited which includes producers. Trustee Shearer wants to see which properties are subject to restrictions based on the distances set forth. She is concerned the restrictions will push things into other areas. Trustee Shearer does not think the market in Capitan can sustain many retail establishments but is concerned the producers are an issue. Mrs. Bolin pointed out the Village can limit the number of establishments and with that number in place, it would not push anything out into the subdivision. Trustee Shearer is concerned setting a number will help create a monopoly and may create an incentive for them to sell to a bigger company. To address those issues, Mr. Bolin would like the Village to not give Village water to producers as well as limit the licenses and make them none transferable. He pointed out the State limits alcohol establishments.

Trustee Fraley asked if the water supply could be limited instead of limiting the number of establishments. He pointed out the Village has a limited supply of water. The Mayor was told a cannabis grow could use 10,000 gallons of water a month. He also said if the Village does not use the water it will be taken away. Commercial taps are charged 1.5 times the regular rate. An attendee said they are growers and are looking at property in Capitan to have an outdoor grow. He said if the property is in the Village, the Village cannot deny him water. He said the Village can only limit where he can operate and the hours. Another attendee asked if the water could be limited to all water customers based on a percentage of water available.

Mayor Lowrance pointed out the main problem is the Village does not have any zoning. Trustee Kearns said zoning was brought up but people argued against zoning. Now people are paying the consequences because it is difficult to keep grows from being next door.

An attendee shared, as a grower, water requirements are set up in the state licensing procedure. He said he only uses 6,000 gallons a month to grow 600 plants using drip irrigation. A grower with 1,000 plants would use 10,000 to 15,000 gallons of water. Mrs. Bolin asked if drip irrigation could be a

requirement for all growers. The individual that grows cannabis said a water conservation plan has to be turned before the State issues a license and he pointed out zoning is necessary to control “this stuff.” Trustee Fraley clarified some growers may not be as water conscious and the state license does not dictate how much water is used. The grower was asked if he had water rights and he said he did not. He would be buying property in the Village limits and would be using Village water. The grower said municipal water makes coming here easy for him. Trustee Fraley pointed out limiting water would not necessary effect growers.

Mayor Lowrance said if water rates are going to be changed, the water ordinances have to be changed. Steve Osborn said the water rate study will be presented next month along with recommendations for water rates. Steve Osborn said water rights can be changed until they are adjudicated. Of the Village’s 1126 acre feet of water rights, 180 acre feet have been adjudicated. He said the State is not going to take the water, they just want the Village to prove it is using the water. If they took water from the Village, they would have to take water from other municipalities in the state. Trustee Kearns is concerned about discriminating against a business. Trustee Fraley asked if there could be a cap for all commercial taps so there is no discrimination but will stop over use by anybody. For someone to grow in the county, they have to have water rights. The Village’s extra-territorial water service is residential. Trustee Kearns said may be that should be established as residential only.

Mrs. Bolin said the Village needs to look at long term plans. The Village may have water now but allowing extra-territorial taps and commercial extra-territorial taps may change that. Mr. Bolin said Enchanted Forest has been hauling water for 9 months. Their best well is producing 4,000 gallons in 24 hours. Alto Alps’ well is not producing enough water to handle demand on the weekends.

Trustee Fraley asked if the 300 feet included in the ordinance was dictated to the Village. The Mayor said it was from the standing on the Alcohol Control Board.

Mayor Lowrance would like to have the Village ordinances in place by December because the State may make changes next year.

Zach Cook said, according the Act, the Village can reasonably limit density. The Village needs to be able to back up how it arrived at the number.

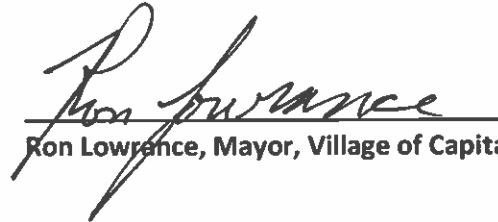
An attendee asked what was going to happen at retail establishments that would cause concerns. She wanted to know what the Council was trying to protect the community from. Mayor Lowrance said now it is legal, it is more controllable. Another attendee asked if someone could buy property on Third Street and open a retail shop. He was told yes because there is no zoning. Trustee Fraley shared the school is having higher incidences of students coming in with marijuana candy. Trustee Kearns pointed out they had to get it in Ruidoso and not in Capitan. Another attendee pointed out a retail establishment would not sell to children. Mrs. Bolin asked if the Village wanted to make it easier for the parents to get it Capitan and give to their kids. Trustee Kearns said energy should be put to educating individuals about the effects of marijuana.

Another attendee said the Village needs to readdress the zoning issues. Trustee Kearns said he is concerned about putting zoning in place now due to discrimination.


Steve Osborn said he would prefer to see dispensaries in the core area of town instead of in the subdivisions. He said the biggest problem he sees with producers would be the use of lights at night and the Village has an ordinance for lights.

An attendee asked if water rationing can be looked into.

The meeting adjourned at 7:58 pm.


Ron Lowrance, Mayor, Village of Capitán

Attest:


~~Al Cavazos, Village Clerk~~
Angela Autrey, Deputy Clerk