

Town of Cedaredge Board of Trustees
Public Hearing
Record of Proceedings
August 5, 2021
Continued from July 22, 2021

The Town Board of Trustees met for a Public Hearing on August 5, 2021, which was continued from July 22, 2021, at the Cedaredge Civic Center, 140 NW 2nd Street, Cedaredge, Colorado. The meeting notice was posted in the designated area at Cedaredge Town Hall at least 24 hours prior to the meeting in accordance with the Sunshine Law. All documents included in these minutes by reference are available for review at Cedaredge Town Hall.

Call to Order: Mayor Hanson called the meeting to order at 5:05 p.m. and led the Pledge of Allegiance.

Roll Call: Present were Mayor Raymond F. Hanson; and Trustees Jim Atkinson, Cathy Brown Charlie Howe, Richard Udd and Heidi Weissner; Town Administrator Greg Brinck; Town Attorney Carol Viner; and Town Clerk Kami Collins. Citing a conflict of interest in the proceedings, Mayor Pro Tem Patti Michael recused herself from the meeting and was not in attendance.

Public Hearings: Retail and Medical Marijuana Licenses:

- a. **Read Rules for All Four Hearings:** Mayor Hanson read the Rules for Hearing. Mayor Hanson asked the Board if anyone had any ex-parte communication or any potential conflicts of interest that would necessitate recusal.

Mayor Hanson had none.

Trustee Atkinson said had a conversation with a community member who asked to speak about the issue, but Trustee Atkinson did not engage in the conversation.

Trustee Brown had none.

Trustee Udd said he had a personal relationship with the property owner of a potential applicant; Trustee Udd's future stepson is Tate Locke. Trustee Udd said neither he nor his fiancée Karen Locke have any financial interest in the business. Trustee Udd said he had no communication with either Ms. Locke or Mr. Locke regarding any potential licensees.

Trustee Weissner said she spoke to Renee Grossman during the pre-legislative process for her guidance on the licensing process. Additionally, applicant Antyn Heatley contacted Trustee Weissner via Facebook to meet to discuss community involvement and potential marijuana application information. Trustee Weissner said she did not respond to that message. Mr. Heatley then contacted Trustee Weissner via email, at which time she said she told him she could not meet with him. Trustee Weissner and Mr. Heatley also sit

on the marketing committee at the Grand Mesa Arts & Events Center together. Trustee Weissner is also on the Board of Directors at GMAEC with Terry and Perry Hotz, property owners of a potential licensee. She said she never had any conversations about marijuana with Mr. and Mrs. Hotz. Trustee Weissner said she spoke with Town Administrator Greg Brinck during review of applications for clarification on which fees were paid by one applicant.

Trustee Howe had none.

Attorney Viner noted that Trustee Atkinson and Mayor Hanson sit on the Planning & Zoning Commission and heard and participated in the Public Hearing.

- b. **Drawing for Order of Hearings for Four Applicants:** Mayor Hanson drew the names out of a hat for the order of the Public Hearings. Drawn first was HQ Applefest LLC, dba High Q Cedaredge; drawn second was Kind Cedaredge, LLC, dba Kind Castle; drawn third was Topsy Twigs, LLC; and drawn fourth was Grand Mesa Group, Inc. dba PUR CannaBliss.
- c. **Hearings for Each Applicant:**

- i. **HQ Applefest LLC, dba High Q Cedaredge**

Staff Presentation: Administrator Brinck presented the staff report, which included staff input from him, Attorney Viner, Clerk Collins and Chief of Police Dan Sanders.

Applicant Presentation: Renee Grossman presented a PowerPoint presentation.

Questions from Governing Body: Mayor Hanson asked if Ms. Grossman would change the name of the business and not use "Applefest;" Ms. Grossman agreed to do that. Mayor Hanson asked how soon Ms. Grossman could have her store opened if she were to be awarded a license; Ms. Grossman said she could probably be open within four months. Trustee Howe asked Ms. Grossman how she remits sales tax. Ms. Grossman said she files online. Administrator Brinck said the Town will need to self-collect the additional five percent sales tax the Town levied on top of the state sales taxes, and the Town has the ability to accept cash, check or EFT. Trustee Weissner asked if there were plans to block the view of the store from the park and the walking path, as that is a high traffic area where kids walk. Ms. Grossman said they had not planned to do that, but could do so if required. She said that she is willing to put up additional exterior cameras and signage saying "Area Under Surveillance." She also said in her opinion that is a parenting issue; marijuana is legal in Colorado and children should be taught that it's legal but not safe for children. She reiterated she would be willing to consider blocking the site if that is what the Town wanted. Trustee Udd asked what Ms. Grossman's qualifications were when hiring a store manager. She said she liked people who have worked in the industry, but that wasn't necessary. Customer

service, sales and people skills were important, and that the position is about the right personality. She said she tends to promote her managers from within. She said she has offered current staff the management position for Cedaredge already. Trustee Udd asked what kind of training is offered for the budtenders; Ms. Grossman said they have a budtender training manual that all store managers utilize. She said some staff from her other stores would be brought to Cedaredge to train the local staff. Trustee Atkinson said that the access to the business does not have a full 25 feet entrance, which could cause issues for cars entering and exiting at the same time. Ms. Grossman said if she were awarded a license, she would like the opportunity to sit down with the Town and figure out the issue. She said she had the understanding that after licensure she would need to submit a final site plan (Title 16 requires a final site plan with the Conditional Use Process).

Public Comment: No member of the Public addressed the Board.

Questions from Governing Body to Applicant and/or Staff after Public Comment: The Board had no additional questions.

Rebuttal from Staff: Staff had no rebuttal.

Rebuttal from Applicant: Ms. Grossman asked for the opportunity to comment on comments made on her application if other potential licensees comment on hers; Attorney Viner and Mayor Hanson said that would not be allowed.

At 6:25 pm, Mayor Hanson called a 10-minute recess.

At 6:25 pm, Mayor Hanson reconvened the Hearing.

ii. **Kind Cedaredge, LLC, dba Kind Castle**

Staff Presentation: Administrator Brinck presented the staff report, which included staff input from him, Attorney Viner, Clerk Collins and Chief of Police Dan Sanders.

Applicant Presentation: John Dyet addressed the Board. He said he has an excellent track record and has no issues with marijuana enforcement. He was awarded the 2020 Best Dispensary. He has a grow he is developing in Pagosa Springs so will soon be able to provide locally-grown products. He said he has a solid management team. He said he just opened a store in Craig. He said his staff says nothing but good things about working for the company. He said he does an extensive training program and then tests them on the program. He said he has applied for other licensees in other jurisdictions; he said he was not denied due to him or his business, but was more denied due to the property and compatibility and surrounding uses. He spoke to Ms. Grossman's earlier comments about the Silt application process; he said that issue came down to Ms. Grossman not

wanting competition. He said his license in Bailey was not denied for anything he did, it was due to the fact that the County Clerk realized too late that the location was next door to a park which was owned by a school, so he voluntarily relinquished that license. As far as his application, he said he is leasing the property to the east to be used for parking. He said he did move his drive up location to the east side of the building per the Planning Commission's recommendations. He said regarding his business plan, his experience shows he has experience. He said most of his licensees have been applied for and awarded within the last 18 months and said he could have a Cedaredge location open by the end of the year. He said he has put in extensive measures to ensure safety of staff during the delivery process. He said he will offer live feed access to the Cedaredge Police Department and appreciated staff adding that point to his overall point system. He said he likes to be able to bring jobs to a community and will do that in Cedaredge. He said his security system is very extensive; he has more cameras per square footage than his competitors do. He said he shared many of the same concerns as Ms. Grossman mentioned the Topsy Twigs business plan. He said he has operational business plan documents that he did not include in the operations manual because he did not want the information to be made public due to safety concerns. He said he is involved in each community he operates stores in. He said in Cedaredge he would bring staff from other stores here to train new staff.

Questions from Governing Body: Trustee Atkinson asked Administrator Brinck if the agreements with the neighboring property owners had been satisfied. Administrator Brinck said the south lot was addressed in the deed and the east lot was added as an addendum. Trustee Udd noted the CUP was approved on July 20, but the site plan shows it was updated as of July 27 and questioned why. Administrator Brinck said all applicants were able to update their site plan before the Board of Trustees. He said the CUP was a recommending document for the Board, and the updated site plan did satisfy all conditions and questions from Town Planner Davis Farrar and the Planning Commission.

Trustees Udd, Atkinson and Weissner noted they did not get to see the updated site plan. Administrator Brinck noted the updated plan had not been included in the packet in error, but that he and Planner Farrar had both reviewed the plan and were satisfied that the Planning Commission recommendations had been met.

Trustee Udd asked if there was RV parking on the new site plan; Mr. Dyet said the RV parking was eliminated.

Trustee Weissner noted there were discrepancies in the operations manual and the other information in the application. She asked if he had experience in the medical field; Mr. Dyet said no, that his Cedaredge location would be his first. Trustee Weissner said she did not see in the security plan that they would offer live feed; it was noted that was outlined on page 139 of the packet. Trustee Udd asked for clarification on if Mr. Dyet would offer delivery for both retail and medical; Mr.

Dyet said only retail at this time but would look at adding medical delivery down the road. Trustee Weissner noted that delivery hours should be limited to business operational hours. Trustee Howe asked for clarification on the discrepancy between the number of licenses he has but only three open stores; Mr. Dyet said he did all licensing at the same time and is now in the process of getting all of those stores open. Trustee Weissner asked when he opened his first store; Mr. Dyet said his Parachute store opened in January 2016.

Public Comment:

Kurt Wedemann, 5519 Heaven's View Road, Cedaredge. Mr. Wedemann said the Board opened the meeting with the Pledge of Allegiance the Board is considering taking up a business that violates federal law and allowing the sale of hallucinogens. He said taking down Connie's Family Restaurant does not fit the Planning Commission's mission statement of "small town character." He said the Board is going out of its way to rezone a property for a business that is not family-friendly. He said the business will bring undesirables into town and that will affect Applefest as well. He said the Board should instead be working with existing businesses instead of bringing in this type of business.

Paul Dill 1160 SE Melinda Ave., Cedaredge. Mr. Dill noted he does not live within Town limits but owns rental properties in Cedaredge and he cherishes the community. He said this particular location is right across the street from Pioneer Town, which is the hallmark of our community. He said this location does not give good representation of the community. He said other locations are better. He spoke against moving out Connie's Family Restaurant. He said the location does not suit Cedaredge.

Shari Burgess, 15679 Happy Hollow Road, Cedaredge. Ms. Burgess said she reiterated the comments Mr. Wedemann and Mr. Dill made about the location. She said the applicant made comments in the Planning Commission Public Hearing, where Mr. Dyet said that said that comments from non-residents should not be considered. She said Mr. Dyet does not understand that a small town community means that residents outside of town limits are vital to the overall health of the community. She said Mr. Dyet made poor choices in other jurisdictions, which led to his licenses not being awarded. She encouraged the Board to consider the other three locations that would not uproot an existing business.

Questions from Governing Body to Applicant and/or Staff after Public Comment: The Board had no additional questions.

Rebuttal from Staff: Staff had no rebuttal.

Rebuttal from Applicant: Mr. Dyet said he has nothing but respect for the entire community, but said that it is a typical process to only allow comments from

residents.

At 7:21 pm, Mayor Hanson called for a 10-minute recess.

At 7:33 pm, Mayor Hanson reconvened the Hearing.

iii. **Tipsy Twigs, LLC**

Staff Presentation: Administrator Brinck presented the staff report, which included staff input from him, Attorney Viner, Clerk Collins and Chief of Police Dan Sanders. Administrator Brinck noted that Mr. Patterson was not in attendance but representatives from his company were in attendance.

Applicant Presentation: Jade Raber and Jessica Davis with Mr. Patterson's company presented a PowerPoint presentation. In addition to the presentation, Ms. Raber noted that as far as their floor plan, they did submit a floor plan to the State MED that shows both the medical and retail side of the business, and she said it was intentional to do a physical separation between retail and medical, which is why they are choosing to utilize the two units. Ms. Raber said she was aware that being buzzed through the store wasn't necessary but they chose to have that option to provide additional security. She said she brought copies of the businesses organization chart and the lease, if the Board wished to review those this evening.

Questions from Governing Body: Mayor Hanson asked why the business fouled up the proper noticing the Planning & Zoning Public Hearing. Ms. Davis said when she pulled property records she incorrectly measured the distance of neighboring properties. Trustee Howe said in the business plan the funding showed zeroes; Ms. Raber said that was because they do not plan to raise capital for initial startup costs, that Mr. Patterson would personally fund that. Trustee Howe asked if brand new asphalt would be laid; Ms. Davis said it all will be replaced. Trustee Weissner said the presentation showed the majority of retail products and did not really mention or list a lot of medical. Trustee Weissner noted that CBD products are not really medical marijuana products. Trustee Weissner noted that under state law to sell medical products to those who are under 21 must have a separation. Ms. Raber noted it only has to be a virtual separation, and showed on the floor plan a separate medical-only counter and cash register, which satisfies the state requirements. Trustee Weissner asked when delivery would happen. Ms. Raber noted that they want to wait 3-6 months after they open so they can solidify the business and secure safe vehicles for the delivery. Ms. Raber noted they wanted to wait, but if the Town wanted it to be a requirement they would. Trustee Weissner noted that to earn the point they would need to offer delivery upon opening. Ms. Raber said then they would commit to offering delivery on day one of operations. Trustee Udd said Ms. Raber said no funds would need to be raised, but the financial plan notes funds of \$450,000; Ms. Raber noted that that was Mr. Patterson's personal funds. Trustee Udd noted the

financial plan was missing lots of information, and the anticipated revenue seemed inflated. Trustee Udd noted that the financial documents appeared to show that the store would not be financially profitable for some time. Trustee Udd asked who would provide products; Ms. Raber said they have some warehouses on the Front Range they have contracted with. Trustee Brown asked if the products are organic; Ms. Raber noted that no company in Colorado is organic. Trustee Atkinson asked for clarification on the management team. Ms. Raber noted she was the operations manager. Trustee Atkinson asked if she would be in Cedaredge. Ms. Raber said at times, but not all the time. She noted that Jessica Davis and Shelane Taylor, who work for Mr. Patterson, will be in the store on a daily basis. Ms. Raber noted that they intend to hire locals to staff the store. Ms. Raber noted all staff would be well-trained. Trustee Weissner noted that Ms. Raber's contract, included in the packet, was only for a year. Ms. Raber noted that was for the consulting, but she was hired as an employee.

Public Comment:

Chrystal Godfrey, 640 ½ S Grand Mesa Drive, Cedaredge. Ms. Godfrey said she lives in the middle of the four potential locations and said the traffic patterns concern her. She asked the if the Board has looked at how the selection of sites would impact the overall traffic flow in town. She asked that the Board take that into consideration when deciding. Ms. Godfrey noted the addition of marijuana businesses was approved by voters. She noted that two outside applicants have applied, and asked the Board to consider local applicants.

Ethel Young 21885 Hamilton Road, Eckert. Ms. Young noted she is a Cedaredge High School graduate. She said no one has addressed the consumers of marijuana. She said marijuana is a substance that can be addictive. She said there is a national pandemic of drug abuse. She said we do not want this in our county or community. She said she spoke with the warden at the Delta Correctional Facility who said inmates there for drug convictions all started with marijuana. She spoke about Drug-Free Delta County, which is an organization that works with drug abusers coming out of the court system. She asked if any of the applicants donate to drug rehab programs. She noted she has friends who use medical marijuana for a child who has seizures, but noted that that family has an extensive team of doctors recommending the use. Ms. Young noted that several years ago a doctor from the Front Range once opened up a shop on the Western Slope and wrote 24 prescriptions in one night for medical marijuana. She noted that people are not going to come to Cedaredge to buy medical marijuana. She said she is totally against any facilities in Cedaredge. She noted that the second year after Colorado allowed marijuana, the State became the second highest in the nation for drug-related crime.

Questions from Governing Body to Applicant and/or Staff after Public Comment: Trustee Atkinson noted Ms. Godfrey's comment on the combined traffic patterns was valid and suggested that Apex should evaluate that before the

Town issues licenses, or could help aid in improvements to the site. Attorney Viner noted the Board could make that a condition of the applicant. Trustee Howe noted the application mentioned a guard, and asked if that would be an armed guard.

Rebuttal from Staff: Staff had no rebuttal.

Rebuttal from Applicant: The applicant had no rebuttal.

At 8:18 pm, Mayor Hanson called a 10-minute recess.

At 8:29 pm, Mayor Hanson reconvened the Hearing.

iv. **Grand Mesa Group, Inc. dba PUR CannaBliss**

Staff Presentation: Administrator Brinck presented the staff report, which included staff input from him, Attorney Viner, Clerk Collins and Chief of Police Dan Sanders.

Applicant Presentation: Antyn Heatley and Jan Prosser presented a PowerPoint presentation.

Questions from Governing Body: Mayor Hanson asked how soon the business will open; Mr. Heatley said the goal is hopefully by the end of October or early November. Trustee Howe asked if customers would stay parked in their lot to explore downtown; Ms. Prosser noted that with the landscaping it won't be possible for non-customers to park in their lot, and they would try to direct customers to other public parking areas. Trustee Howe asked about the training course Mr. Heatley and Ms. Prosser took and asked if it was beneficial; Ms. Prosser said it was very beneficial and she learned a lot about the medical field especially. Trustee Weissner asked about the tree on the north lot and if that would be removed; Ms. Prosser noted that the landscaping will mostly be on the east and north. Trustee Weissner asked with the traffic flow would allow a car to pass when another car is at the drive through; Ms. Prosser noted that all of her plans were fully engineered and the engineer made sure there is room. Trustee Weissner said it appeared there was a right lane only exit; Ms. Prosser noted CDOT will require them to re-stripe the highway, which would accommodate that issue. Trustee Weissner asked how long they have retained the consultant group; Mr. Heatley said indefinitely, and at least until the management team is comfortable with the business and that the team would be on retainer after that. Ms. Prosser noted that either she or Mr. Heatley will be on site for day-to-day management. Trustee Udd asked for clarification on the delivery issue; Mr. Heatley noted that it was an oversight on his part that he did not check that box on the application, which is why two pages were included. Mr. Heatley noted they have leased a specialized van from Denver to aid with delivery. Trustee Udd asked if they have secured financing for the building; Mr. Heatley noted that the

funding is committed. Trustee Udd asked if they had agreements with their investors; Mr. Heatley said yes.

Public Comment:

Willow Moreland, 310 SE 2nd Street, Cedaredge. Ms. Moreland is a graduate of Cedaredge High School and is a local business owner. She said she has a deep understanding of what makes a small town special. She said what is best for the community does not only look at location, and instead should look at who is running the business. She added she was concerned about the Connie's location due to the impact of traffic, specifically to the neighborhood kids who walk to school. Ms. Moreland said the PUR CannaBliss location is better because it will draw people downtown, and said that the group is local and in it for the long haul and invested in the community. She noted that the applicants with experience at one point had to start from scratch, and that everyone has to start somewhere, and that should not be held against the applicant.

Cathy Meskel, 205 N Grand Mesa Drive, Cedaredge. Ms. Meskel said that as a community we always say “shop local;” she said it is important to also “own local.” She encouraged the Board to select a local applicant. She said the two local applicants are already have well-established businesses within the community.

Mike Meskel, 205 N Grand Mesa Drive, Cedaredge. Mr. Meskel thanked the Board and the Staff for their work in the licensing process. He said he moved to Cedaredge in 2007 because he got tired of the “rat race” in Rifle. He was drawn to Cedaredge because there were no big box stores. He said he likes the PUR CannaBliss location and business model, especially for their proposed work with the medical community. He said it was unfortunate that the group has to pay for the sidewalk that has been in disrepair since he moved here. He said he supports his wife’s comments that the Board should select a local operator.

Questions from Governing Body to Applicant and/or Staff after Public Comment: No additional questions.

Rebuttal from Staff: Staff had no rebuttal.

Rebuttal from Applicant: The applicant had no rebuttal.

At 9:43 pm, Mayor Hanson called for a 10-minute recess. Prior to the recess, Mayor Hanson told all Applicants that when the Hearing was reconvened, it would be the Board’s decision to award licenses and Applicants could not interject into the conversation. He said that at the conclusion of the Hearing, any Applicant that had issues with the decision were not to reach out to Staff or to the Board, and should instead contact Attorney Viner.

At 9:46 pm, Mayor Hanson reconvened the Hearing. Mayor Hanson thanked the applicants for their work; thanked the Staff and the Board for their work on the process.

Action Items:

- a. Deliberations to Establish Findings and Conditions for Each Applicant:** The Board deliberated each application and merits, including background and proof of ownership; traffic and parking impact, and/or drive through analysis, business plan, floor plan, signage plan, odor mitigation, security plan, location of store, point and weight system and overall impressions of the application.

Trustee Brown made a statement for the record. She said she has been against pot shops all along, and for consistency sake, she will vote no on each application.

Trustee Weissner moved and Trustee Udd seconded to approve Resolution 30-2021: Grand Mesa Group dba PUR CannaBliss, approving a medical and retail marijuana license with conditions, including: complying with all conditions by the Planning & Zoning Commission; both staff and customer restrooms should be ADA-compliant; parking should be ADA-compliant; if signage uses spotlights, spotlights shall be shielded; the drive through must have its own odor mitigation; the third-party alarm company must be identified prior to operations; the approved CDOT access permit must be submitted to the Town; and all landscaping should be designed so as not to block pedestrian or vehicle traffic's line of sight.

Roll Call Vote: Voting "aye" were Mayor Hanson and Trustees Atkinson, Howe, Udd and Weissner; Trustee Brown voted "nay;" motion passed 5-1.

Trustee Weissner moved and Trustee Howe seconded to approve Resolution 28-2021: Kind Castle LLC, denying a medical and retail marijuana license.

Roll Call Vote: Voting "aye" were Mayor Hanson and Trustees Atkinson, Brown Howe, Udd and Weissner; no Trustee voted "nay;" motion passed unanimously.

Trustee Howe moved and Mayor Hanson seconded to approve Resolution 31-2021: HQ Applefest LLC dba High Q Cedaredge, approving a medical and retail marijuana license with conditions, including: complying with all conditions by the Planning & Zoning Commission; both staff and customer restrooms should be ADA-compliant; parking should be ADA-compliant; if signage uses spotlights, spotlights shall be shielded; the third-party alarm company must be identified prior to operations; the approved CDOT access permit must be submitted to the Town; the applicant should work with Planner Farrar to work on the parking lot entrance issue; and all landscaping should be designed so as not to block pedestrian or vehicle traffic's line of sight.

Roll Call Vote: Voting "aye" were Mayor Hanson and Trustees Atkinson, Howe, Udd and Weissner; Trustee Brown voted "nay;" motion passed 5-1.

Trustee Weissner moved and Trustee Howe seconded to approve Resolution 29-2021: Topsy Twigs LLC.; denying a medical and retail marijuana license.

Roll Call Vote: Voting “aye” were Mayor Hanson and Trustees Atkinson, Brown Howe, Udd and Weissner; no Trustee voted “nay;” motion passed unanimously.

Trustee Weissner moved and Trustee Howe seconded to put a moratorium on any additional medical marijuana licenses. In discussion, Trustee Atkinson asked for clarification on the timeline for the moratorium. Attorney Viner suggested the moratorium can be in effect until the Board amends Title 11 of the Cedaredge Municipal Code. Trustee Weissner amended her motion to put a moratorium on any additional medical marijuana licenses until the Board amends Title 11; Trustee Howe seconded the amendment.

Roll Call Vote: Voting “aye” were Mayor Hanson and Trustees Atkinson, Brown Howe, Udd and Weissner; no Trustee voted “nay;” motion passed unanimously.

Trustee Weissner thanked everyone in the room who stayed for the duration of the Hearing. Trustee Weissner moved and Trustee Howe second to adjourn the meeting; Mayor Hanson adjourned the meeting at 11:36 pm.

Respectfully Submitted,



Kami Collins
Town Clerk