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County revisits medical marijuana

Commissioners to consider lifting moratorium on new operations



Photo by: LINDSAY EPPICH/Herald

Travis Pollock, owner of Natures Own Wellness Center, tests the potency and chemical makeup of a marijuana plant Friday.

Katie Burford **Herald Staff Writer**

La Plata County commissioners on Tuesday will consider whether to lift the county's moratorium on new medical marijuana operations to give existing operators a shot at staying open while a new state law is implemented.

If the county lifts the moratorium in the next couple of weeks, it would give operators a small window of opportunity to apply before the July 1 deadline when they must prove to the state they have a local license or are in the process of getting one.

Otherwise, they will have to wait until new state licensing rules, which have yet to be drafted, are in place.

"It kind of puts me in a little bit of a pickle here," Travis Pollock, owner of Natures Own Wellness Center, said in a phone interview last week.

Pollock said he has a site in the county where he grows some of the marijuana used to supply centers he has in Durango and Cortez.

When he called the county's Planning Department last year about getting a permit or license, he was told no process existed.

"So they told me to stay under the home-based business rules of having my facilities under 800 feet. If I was able to do that, then I wouldn't have to be licensed," he said.

But now Pollock doesn't have any documentation to meet the state requirement demonstrating he has local government approval.

The predicament is emblematic of the mad dash at all levels of government to improvise a legal structure for regulating medical marijuana where none existed before.

Colorado voters legalized medical marijuana in 2000, but the flood gates opened last year when the Obama administration announced that it would not seek to prosecute individuals who are complying with state laws, although medical marijuana remains illegal under federal law.

State lawmakers responded with House Bill 1284, which was signed into law earlier this month and sets new rules for growing and selling medical pot.

Commissioners received a briefing on the new law in a work session last Tuesday. Though not normally allowed, commissioners took testimony from the audience of about 15 people. Pollock and other center owners urged them to lift the moratorium.

Jonny Radding, an owner of Durango Organics, said the operations create jobs.

"I think it also brings in much-needed growth to these areas," he said.

The state bill differentiates between centers, manufacturing facilities and caregivers.

Caregivers are not licensed by local government and can provide medical marijuana for up to five patients.

Centers, on the other hand, will be required to have both state and local licenses. They cannot possess more than six plants and 2 ounces for each patient registered with the center.

Centers must also grow 70 percent of their marijuana on site or at a licensed grow site that has been officially recognized as their supplier.

The bill gives local governments or voters the power to ban centers and manufacturing facilities. Bayfield imposed such a ban last month.

Pollock said if he can't get his La Plata County grow site licensed, he will have to go elsewhere.

"We have multiple sites," he said. "It's just more of a hassle for me because then I have to travel to pick up my medicine. I have to bring it back, and I'm spending time and so forth that could be contained in this community."

Commissioners in March voted to impose a six-month moratorium on the development of land for medical marijuana dispensaries or grow houses.

County staff reported seeing a spike in interest, mostly in establishing grow houses, before the moratorium was imposed.

Even if commissioners vote Tuesday to lift the moratorium, the county still will have to quickly come up with a temporary process for permitting the operations. Otherwise applicants would be no better off than if the moratorium had stayed in place.

The options commissioners will consider Tuesday are permanently lifting the moratorium, leaving it in place or lifting it just until July 1 to give existing operators a chance to meet the state requirements.

In a report, county staff recommended against lifting the moratorium permanently but was moot on the other possibilities.

"The other options are policy decisions which are solely within the purview of the (board of county commissioners)," it reads.

The report recommended against lifting the moratorium if commissioners are inclined to ban operations in the future.

"A continuous moratorium would prevent staff and the public from wasting resources on the drafting of new regulations that may never be adopted or making business plans that may not come to fruition," it reads.

Under the state law, the location of operations that grow marijuana for a center, called an "optional premises," are confidential and will be kept out of public records.

The plants, which can be worth thousands, have been a target of break-ins and theft.

But the secrecy creates another problem for the county if the centers are to be allowed.

The county's land-use code uses neighborhood compatibility to determine whether a land-use permit should be approved.

"If you can't identify where the property is, how do you determine compatibility?" County Attorney Sheryl Rogers asked.

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