



Marysville Hearing Examiner

June 15, 2010

9:00 a.m.

Marysville City Hall

CALL TO ORDER

Hearing Examiner Ron McConnell opened the hearing at 9:00 a.m. acknowledging that this was a continuance of the previous hearing on June 9, 2010.

ATTENDANCE

The following staff was noted as being present:

Hearing Examiner Ron McConnell, Chief Administrative Officer Gloria Hirashima, Planning Manager-Land Use Cheryl Dungan, and Recording Secretary Amy Hess

PUBLIC HEARING

1. **M10-02 –Elevated Medical Treatment-Continuance**—Appeal of denial of business license issuance for Elevated Medical Treatment.

Applicant: Elevated Medical Treatment
Kat Jensen, Business Manager

Location: 15324 Smokey Point Boulevard

Staff Comment:

Mr. Graafstra began with questions for the appellant regarding the Report submitted by EMT at the June 9, 2010 hearing. Specifically, he questioned the criminal activity included in the packet. Ms. Jensen responded that she did not feel that the situation in Skagit County being referred to had any bearing on this situation, as this was about their business license, not business practice. Mr. Graafstra questioned the donation methods at the facility. He had concerns about some of the individuals donating attending a "Hemp Fest" in California. Ms. Jensen responded that it was invalid information and did not have any bearing on EMT.

Mr. Graafstra questioned the formation of EMT as a Non-Profit and stated that Non-Profits typically have members; he wanted to know who the members of EMT were. Ms. Jensen responded that they have 12 months after the formation of the Non-Profit to elect members and file with the State and that this point, that process had not yet been completed by EMT.

Mr. Graafstra asked for clarification as to who the corporation included. Ms. Jensen responded that Anna Orr was the corporation and that her position was to help non-profits function in a correct and legal manner. Ms. Jensen inquired as to how Mr. Graafstras questions related to

the business licenses. She stated that the volunteers were agents of the company, not the actual company and that perhaps an individual background check would be more appropriate. Mr. Graafstra questioned who the City would run a background check on. Ms. Jensen responded that without a business license, they did not have volunteers at this point so she felt this question was premature. Mr. McConnell questioned what was proposed as far as staffing and meeting the one patient to one provider restriction should the license be approved. Ms. Jensen responded that many patients would be willing to volunteer and submit to background checks. She again explained how each patient would sign in and sign out for just a specific event and specific time period.

Mr. Graafstra questioned what interest, if any, a party by the name of Green had in EMT. Ms. Jensen responded that she did not know who this party was. Mr. Graafstra stated he did not have any further questions at this point.

McConnell had questions regarding the packet that had been submitted at the previous hearing. He stated that he could not find any allowance for any type of dispensaries in the state of Washington under the RCW's. He did find 12 other states that would allow this, but not in Washington. Mr. McConnell questioned the report included in the packet regarding the number of other dispensaries now functioning in the state of Washington; adding that none of these had a business license nor were any letters included from these dispensaries stating that they did in fact have a business license. He added that he felt that using the state of California as an example was a bit of a stretch. Mr. McConnell questioned legal counsel whether any other jurisdictions had issued a business license for this type of dispensary. Mr. Graafstra responded that they had been unable to garner any information that any types of these businesses had been licensed in the state.

Ms. Jensen stated that they were a precedent and that it wasn't a question of when these types of businesses were coming, but that they were already here and that was made apparent by the examples included in her packet. She added that it is a grey area in the current state law and that our state calls to look to other states for direction in a situation such as this. She suggested approval on a probationary basis and working with the Police Department and City.

Mr. Graafstra responded that this was a business license issue under state law. He explained that there were two flaws in the application. First was the misrepresentation of the intent of the business in the original application. Second were the RCW's in place concerning the designated provider. He stated that it is not the City's position to say whether it is a good law or not. Mr. Graafstra stated that the type of business being proposed was not lawful under Washington's regulatory law. This was included in the Department of Health report that was included in packet submitted by EMT.

In closing, the City's position is that this license be denied based on the misrepresentation of license application and that it would not function lawfully under Washington State's regulatory laws.

Ms. Jensen responded that they had admitted previously that the misrepresentation on the license application was an error and had since been corrected. She felt that denial on this basis was biased. She could not see how, with the business being run as proposed, it would violate the one patient to one provider provision. She felt that the POA she had discussed would allow them to operate within the provision.

Mr. McConnell questioned legal counsel as to whether this is something that could be defended or not. Mr. Graafstra explained the initiative regarding Medical Marijuana and how the language came to be the way it was; adding that the intent of the initiative was to be a limited means for a limited number of people to have access to Medical Marijuana.

Ms. Jensen responded that the business was not a pharmacy as Mr. Graafstra had inferred. They would not have narcotics or chemicals on the premises the way a pharmacy does. She added that they were good people trying to give back and help people in need of holistic medical treatment.

Mr. McConnell explained that he was very empathetic to this type of his situation. He stated that the law was very unclear and that this is a difficult case. He explained that his sticking point was the "...actual person..." portion of the law. Ms. Jensen responded that acting as volunteers created the actual person. Mr. Graafstra tried to explain that the language and definitions of actual persons and that the license application was for Elevated Medical Treatment, not individuals.

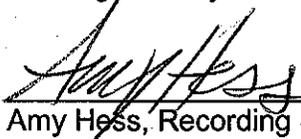
Mr. McConnell stated that right now, the application before him did not satisfy the criteria of the current law. He felt that there were other ways and options and suggested starting fresh with a new application. Ms. Jensen felt that at this point the City was not open to this type of business and that she felt that they would continue to come up against discrimination. Mr. McConnell stated again that he was not able to cross the hurdle of the "person" and at this point could not approve this application as it had been submitted.

Public Comment:

None

ADJOURNMENT:

Hearing was adjourned at 9:40 a.m.



Amy Hess, Recording Secretary