

CITY OF McMinnville
MINUTES OF WORK SESSION of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, May 10, 2016, at 6:00 p.m.

Presiding: Rick Olson, Mayor

Recording: Rose A. Lorenzen, Recording Secretary

Councilors: Present
Remy Drabkin Kellie Menke
Scott Hill Alan Ruden
Kevin Jeffries Larry Yoder

Also present were City Manager Martha Meeker, City Attorney David Koch, Police Chief Matt Scales, Finance Director Marcia Baragary, Planning Director Doug Montgomery, and members of the news media, Don Iler of the *News Register*, and Dave Adams of KLYC Radio.

WORK SESSION

Mayor Olson called the Work Session to order at 6:13 p.m. and advised the topic for the evening's Work Session was to discuss recommendations for changes to the City's enforcement policy regarding the implementation of an exclusion zone, expanding skateboarding restrictions, and to discuss the implementation of a business license.

Mayor Olson called on Police Chief Scales to lead the discussion addressing issues in the downtown area. Chief Scales reviewed the idea behind an exclusion zone for the downtown area. He recalled that in 2004, the downtown area was experiencing increased criminal type behavior. Former Police Chief McFarlin and staff reached out to the affected businesses to remedy the situations. In 2005 the enhanced enforcement ordinance came about. The boundaries for the enhanced enforcement district reached from First to Fifth Street and from Adams to Irvine Streets.

Then, in 2010-11, because of concerns regarding constitutionality of the legislation, the ordinance was repealed. Since that time, calls for service have increased approximately 38 percent in the downtown area. Chief Scales noted that because of the uniqueness of the downtown area and its high density and high tourist numbers staff felt that it was important to look for solutions to the increasing problems in the area. Staff revisited the idea of an exclusion zone and looked at how other cities handled the problem of repeat offenders. He pointed to the City of Ashland's exclusion zone ordinance which states that exclusion occurs only after an arrest and conviction of a crime.

Staff spoke with the Municipal Court Judge and the City Prosecutor and as a result of those conversations, staff crafted an ordinance with a scaled down footprint from the earlier ordinance. The draft ordinance does not include City Hall, Civic Hall, Municipal Court, or County buildings. The zone would include the area from Second to Fourth Streets and from Adams to Galloway Streets. The exclusion would not go into effect until the individual was convicted of a violation within the zone and exclusion for the first offense

would be 30 days; second violation or first misdemeanor conviction would be 90 days; and a second misdemeanor or combination of any three violations would be 180 days. A person found to be in violation of a civil exclusion order would be subject to a citation and/or arrest for the crime of Criminal Trespass I, which is a Class C misdemeanor.

Mayor Olson asked for discussion from the Council.

Responding to Councilor Jeffries' inquiry regarding what types of crimes could cause an exclusion, City Attorney Koch stated that they looked at the City of Bend's ordinance which includes assault, sexual offenses, sale and manufacture of unlawful controlled substances, criminal mischief, arson, graffiti, lettering, two or more citations for drinking in an unlicensed premises within a certain period of time, and other, similar types of behaviors.

Councilor Drabkin advised that she was concerned that an individual could be excluded for a first offense of littering or public elimination. Those two offenses seemed to be broad, especially since the City has a rather large transient population. If a person were at the east end of the downtown area late at night, after the bars and other businesses were closed, there would be no place available for them to use a restroom. She further explained that the broadness of the language could target the transient population that lives in the downtown area.

Councilor Hill stated that he worked downtown for 25 years and he was aware of the negative types of behaviors that occur in the area. He pointed out that the City's transient lodging taxes are working to bring more tourist activities to the downtown area and it was important to be able to keep the environment safe and livable.

City Attorney Koch explained that once an individual was cited, they would appear in Municipal Court where they would either plead "guilty" or "not guilty." If they plead "not guilty," a trial would take place and if they were found to be guilty, they would be excluded from the area.

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Councilor Ruden stated that he was not convinced that the ordinance would improve safety in the downtown area, but agreed that the area slated as the boundaries was good.

Councilor Drabkin reiterated her concerns and wondered if the City was treating everyone equally. She stated that she wanted to support the police force and the downtown businesses, but she had many reservations about the broadness of the language.

Councilor Hill advised that he was comfortable with the boundaries and listing the various offenses that could be included for exclusion. He stated that he believed it was not the first offender that the police would be looking for, but rather the chronic offenders. He felt that the draft ordinance was a good starting point to keep the downtown area safe. Councilors Menke and Yoder agreed with Councilor Hill and stated they were in favor of moving the draft ordinance forward. By consensus Council agreed to move the ordinance forward to a public hearing.

ADJOURNMENT: Mayor Olson adjourned the Work Session and opened the Regular City Council meeting at 7:09 p.m.

Rose A. Lorenzen, Recording Secretary

CITY OF McMinnville
MINUTES OF REGULAR MEETING of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

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Presiding: Rick Olson, Mayor

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AGENDA ITEM

CALL TO ORDER: Mayor Olson called the Meeting to order at 7:10 p.m.

PLEDGE OF ALLEGIANCE: Councilor Menke led in the recitation of the Pledge of Allegiance.

INVITATION TO CITIZENS FOR PUBLIC COMMENT: Dave Haugeberg, 11396 NW Willis Road, updated the Council on the Newberg-Dundee Bypass. He advised he was the Chair of the Yamhill County Parkway Committee and that the Committee had been hard at work advancing the next phase of the Bypass - up to Rex Hill. The Committee strongly believes that the Bypass should continue moving forward and they are working on opportunities to acquire right of way from the area around the Newberg hospital. He advised that there have been letters of support from several locations. Marion County sees that if the next phase of the project is not completed, increased traffic on Highway 219 could become problematic. Congress, through the efforts of lobbyists, has elevated the project to a high priority corridor. The Committee will be working on two fronts - in Congress in Washington, D.C. and in Salem. He explained the value of the lobbyists and stated that he is asking all parties to double their contributions in the next fiscal year - for

the City of McMinnville, it would mean an investment of an additional \$18,000 for a total of \$36,000. He advised that he would request that amount at the upcoming Budget Committee meeting.

Each of the Council members thanked Mr. Haugeberg for the update and all reiterated their support for the Bypass project.

Mark Davis, 652 SE Washington Street, spoke to the Council in support of more affordable housing. He pointed out that the Council has been making a good effort regarding affordable housing. He advised that the Council should, when discussing the urban growth boundary process, bring the various land use communities into the discussion - to build trust and relationships.

Dave Adams, Manager of KLYC Radio, thanked the efforts of the American Legion, Post 21 for helping to bring the Wall of Honor to the Evergreen Aviation Theater. He advised that no admission would be charged to view the Wall. It includes the names of all those who have been killed in combat since September 11, 2001.

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CONSENT AGENDA: Councilor Hill MOVED to approve the following Consent Agenda items:

- Minutes of the February 9, 2016 Dinner and Regular City Council Meetings;
- **Resolution No. 2016-22** establishing a recommended, conditionally permitted, and prohibited street tree list for the City of McMinnville;
- Resolution No. 2016-23 approving the Property Management Agreement for the City owned **property** at 4600 NE Riverside Drive;
- **Resolution No. 2016-24** awarding the contract for the ATAD #2 Coating Project, Project No. 2016-1;
- **Resolution No. 2016-25** entering into a Personal Services Contract with CESNW for engineering services associated with the Edmunston Street Culvert Repair Project, Project 2016-6;
- **Resolution No. 2016-26** accepting the transfer of jurisdiction over portions of the following county roads inside and outside the City of McMinnville: NW Hill Road and NW Baker Creek Road;
- **Resolution No. 2016-27** approving entering into an intergovernmental agreement between the State of Oregon and City of McMinnville for Disposal of Surplus Property;
- **Resolution No. 2016-28** approving a lease between the City of McMinnville and the Good Olds Pace, LLC doing business as Cornerstone Coffee; and
- Liquor License applications;

Councilor Drabkin SECONDED the motion. Motion PASSED unanimously.

2. PROCLAMATIONS

2 a NATIONAL PUBLIC WORKS WEEK: Mayor Olson asked Community Development Director Bisset to come forward. Mayor Olson read the National Public Works Week proclamation into the record.

2 b NATIONAL POLICE WEEK: Mayor Olson asked Police Chief Scales to come forward. Mayor Olson then read the National Police Week proclamation into the record.

3 PLANNING COMMISSION INTERVIEWS: Mayor Olson advised that there were two individuals present to be interviewed for a vacancy on the Planning Commission - Erich Berg and Nanette Pirisky. Mayor Olson asked Ms. Pirisky to come forward for her interview.

Each of the Councilors questioned Ms. Pirisky about her interest in being on the Planning Commission, the community in general, her vision for the community, and her ability in making quasi-judicial decisions in a public setting.

Following Ms. Pirisky's interview, Mayor Olson thanked her and asked Mr. Berg to come forward.

Each of the Councilors questioned Mr. Berg about his interest in being on the Planning Commission, the community in general, his vision for the community, and his ability in making quasi-judicial decisions in a public setting.

Following the interviews, Mayor Olson reminded the Council that there was one Ward 3 vacancy on the Planning Commission and asked for deliberation on the two candidates.

Following a thorough discussion on the attributes of each candidate and what attributes were needed for a good Planning Commissioner, Councilor Jeffries MOVED to appoint Nanette Pirisky to the vacant Ward 3 position on the Planning Commission; SECONDED by Councilor Menke.. Motion PASSED unanimously.

RECESS / RECONVENE: Mayor Olson called for a brief recess at 8:15 p.m. He reconvened the meeting at 8:22 p.m.

4 OLD BUSINESS

4 a PRESENTATION: JIM GALBA TO INITIATE AMENDING THE NE GATEWAY PLANNED DEVELOPMENT OVERLAY ORDINANCE: Mayor Olson introduced Jim Galba and advised that Mr. Galba would like to discuss a concrete building located at 12th Street and Alpine Avenue where Mr. Galba currently houses his marijuana growing operations. Mayor Olson welcomed Mr. Galba and asked him to come forward.

Jim Galba, 524 SW Drumwood, stated that he was in attendance to request that the City Council initiate a zone

change for the area that includes his growing operation. He explained that the Planning Commission views the growing of marijuana as an industrial use. The location he has been using to grow marijuana has a zoning overlay on it and does not allow for the production of marijuana, even though the site is in an area zoned for industrial use. He further explained that the property is a single tax lot with a house as well as a fireproof concrete structure. If the contents happen to catch fire, the fire would be contained within the building. He stated that his location was much like that of Online NW but the Online NW location is appropriate for the zone because the business is involved in consulting work.

Councilor Yoder confirmed the location of Mr. Galba's business on the site map. Councilor Yoder asked if Mr. Galba owned the property on which his business is sited. Mr. Galba replied that he rented the site. Councilor Yoder thanked Mr. Galba for being upfront with the City and the City Council regarding this matter.

Mayor Olson asked Mr. Galba how long his business had been in operation. Mr. Galba replied that he started his business in 2013.

Councilor Menke reflected that as the Council went through all of the items related to marijuana at earlier City Council meetings, it was very clear that the production of marijuana would be classified as an industrially-zoned activity. She asked what was restricting Mr. Galba from relocating his business to an appropriate industrial site. Mr. Galba responded that the lack of available funding was the primary reason. He explained that there were only certain properties available and some of those properties were already leased. He would most likely have to start over at "ground zero." It would cost him a minimum of \$100,000 to start over in a new location. Mr. Galba explained that when he rented the building for his production site, he had no idea about the zoning overlay. Additionally, Mr. Galba noted that it is not possible to see what is going on inside the building.

City Attorney Koch explained that when Ordinance No. 5000 was adopted in December 2015, marijuana production was only allowed within M-1 or M-2 zones. The Overlay ordinance (Ord. 4971) was adopted and became effective on July 9, 2013. That ordinance included the adoption of zones 1, 2, and 3 within the overlay. He further explained that unless there is a mixed use, such as a cottage industry selling a product as a retail sales component, marijuana production by itself would not be allowed as it is an industrial-zoned use. Mr. Koch further explained that within the NE Gateway District, only certain types of industrial uses - related to food and beverage with a retail component - are allowed in Zone 3 of the overlay ordinance, the area where Mr. Galba's business is sited.

Mr. Galba advised that currently his site houses a medical marijuana grow which does not have the same implications as a recreational grow site might have. He suggested that the City could not make the land use laws more restrictive than state law.

Mr. Koch advised that state statute, reflected in Ordinance 5000, allows the City to adopt reasonable time, place, and manner restrictions. He advised that Mr. Galba was requesting that the City Council either disregard or amend the overlay ordinance. He advised that the ordinance could not be disregarded. He suggested that Mr. Galba could request a zone change amendment to the ordinance to allow for some limited industrial type uses, such as the production of marijuana, or he could ask the Council to amend the ordinance. He advised that Mr. Galba was asking the Council to do the amendment.

Lengthy discussion followed, after which Councilor Menke MOVED to **not initiate proceedings to** amend the NE Gateway Planned Development Overlay ordinance; SECONDED by Councilor Hill. Motion PASSED unanimously.

Following the passage of the motion, Mayor Olson advised Mr. Galba that if he chose to do so, he could initiate a zone change request and go before the Planning Commission in a public hearing. Planning Director Montgomery agreed and advised that if the Planning Commission decision approved the zone change request, the final decision would be with the City Council.

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STAFF UPDATE ON SCHOOL DISTRICT TENNIS COURTS: City Manager Meeker advised that this update was in follow-up to Mr. Cole Risdon's City Council presentation a few weeks earlier.

Ms. Meeker advised that City staff has received written verification from the McMinnville School District regarding the classroom on the tennis courts. She advised that specific physical education (PE) classes and tennis team practices are held at that location. Ms. Meeker noted that this topic has taken a great deal of staff time, effort, and money and is a very difficult and moving target as the State of Oregon continues to put together the rules and laws surrounding the sale of marijuana.

Councilor Ruden advised that he read the language and understand it in his mind, but his heart was speaking and he believed that there was no education being undertaken that should factor into this. Additionally, the City finalized a building permit. The Council should take whatever steps necessary to assist in rectifying this problem.

Councilor Drabkin stated she believed it was always important that there is a compelling reason to reassess criteria and in this case it would be so individually

specific to a circumstance that she did not believe there was reason for a reevaluation. The School District has said that classes are held in that location. She did not believe the City needs to reevaluate the criteria; however, she also understood that there was a wrong happening. It was wrong that the individual was granted all the licensing and that the applicant made the investment and will now suffer the consequences. He was denied approval by the Oregon Health Authority (OHA) and will most likely be denied by the Oregon Liquor Control Commission (OLCC).

Councilor Yoder asked about the OHA investigation. City Manager Meeker advised that the OHA does its own investigation and makes its own determination.

Councilor Menke agreed that this was a difficult situation and although it is ultimately up to the OHA, it appeared to her that use of the tennis courts is pretty negligible.

Following extensive discussion, Councilor Jeffries MOVED to direct staff to write a letter to OHA showing support for Mr. Risdon's dispensary; SECONDED by Councilor Menke. Motion PASSED unanimously.

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ADJOURNMENT: Mayor Olson adjourned the meeting at 9:33 p.m.

Rose A. Lorenzen, Recording Secretary