

CITY OF MCMINNVILLE
MINUTES OF DINNER MEETING of the McMinnville City Council
Held at the Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, February 25, 2014, at 6:00 p.m.

Presiding: Rick Olson, Mayor

Recording: Rose A. Lorenzen, Recording Secretary

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Scott Hill	Kellie Menke
	Paul May	Larry Yoder
		Kevin Jeffries
		Alan Ruden

Also present were City Manager Kent L. Taylor, City Attorney Candace A. Haines, Planning Director Doug Montgomery, Community Development Director Mike Bisset, Finance Director Marcia Baragary, Information Systems Director Murray Paolo, Police Chief Ron Noble, and a member of the news media, Nicole Montesano of the *News Register*.

DINNER

CALL TO ORDER: Mayor Olson called the Dinner Meeting to order at 6:30 p.m. and welcomed all in attendance.

PUBLIC HEARINGS: Mayor Olson reviewed the two public hearings that would be held at the Regular Meeting - regarding locating medical marijuana dispensaries within the City's boundaries and regarding the final draft Economic Opportunities Analysis (EOA).

Planning Director Montgomery advised that the City's consultant, Eric Hovee, would be present and would give a brief overview of the entire EOA process. He pointed out that the hearing regarding the Economic Opportunities Analysis would be legislative, rather than quasi-judicial in nature.

APPOINTMENTS TO THE TRANSIENT LODGING TAX COMMITTEE: Mayor Olson stated that an excellent group of individuals had agreed to be on the City's Transient Lodging Tax Committee and that, at the Regular Meeting, Council could officially appoint them to the Committee.

ORDINANCE - Amending Certain Chapters of the Zoning Ordinance: Planning Director Montgomery explained that the draft ordinance was partly housekeeping in nature and would also formally allow tasting rooms as a permitted use in the M-L (Limited Light Industrial) zone.

RESOLUTION - Regarding Mandatory Prequalification: Community Development Director Bisset explained that it is in the best interest of the City to prequalify contractors who are interested in bidding projects which are large and complex, such as the Police Department project and the upcoming Water Reclamation Facility Project. He noted that projects of \$5 million or more are large and complex and should fall under the mandatory prequalification guidelines.

McMINNVILLE DOWNTOWN ASSOCIATION AWARD TO THE CITY: Councilor Hill reported that the City had received the Manager's Award at the recent McMinnville Downtown Association Annual Dinner. He congratulated staff and the Council on the prestigious award.

ADJOURNMENT: Mayor Olson adjourned the Dinner Meeting at 6:47 p.m.

Rose A. Lorenzen, Recording Secretary

CITY OF McMINNVILLE
MINUTES OF REGULAR MEETING of the McMinnville City Council
Held at the Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, February 25, 2014, at 7:00 p.m.

Presiding: Rick Olson, Mayor

Recording: Rose A. Lorenzen, Recording Secretary

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Scott Hill	Kellie Menke
	Paul May	Larry Yoder
		Kevin Jeffries
		Alan Ruden

Also present were City Manager Kent L. Taylor, City Attorney Candace A. Haines, Planning Director Doug Montgomery, Community Development Director Mike Bisset, Finance Director Marcia Baragary, Information Systems Director Murray Paolo, Police Chief Ron Noble, Principal Planner Ron Pomeroy, and a member of the news media, Nicole Montesano of the *News Register*.

AGENDA ITEM

CALL TO ORDER: Mayor Olson called the meeting to order at 7:00 p.m. and welcomed those in attendance.

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

INVITATION TO CITIZENS FOR PUBLIC COMMENT: Ellen Bender, 483 NW Meadows Drive, spoke to the Council regarding her belief that a Police Officer did not correctly investigate a situation that occurred with her car. She reported that the car had malfunctioned while she was driving out of her driveway. She advised that she returned the car to the dealer where she had purchased it and explained that she did not have any brakes or steering during the event and they told her that the car could not have done what she purported. The Officer had stated the same thing. She said that the Officer had not reported what had happened accurately.

Responding to Mayor Olson's inquiry, Police Chief Noble stated that he had looked into the matter when Mrs. Bender complained to him. He stated that he had reviewed the report and felt that it was done correctly and accurately. Councilor May asked Mrs. Bender to give her written response to the Police Department and the letter could go with the Officer's investigation. City Manager Taylor asked Mrs. Bender to call Recording Secretary Lorenzen who would pick up the report from her at her home. Mrs. Bender agreed to do this.

CONSIDER MINUTES: Councilor Hill MOVED to approve the minutes of the January 28, 2014 Dinner and Regular Meeting minutes as submitted; SECONDED by Councilor Menke. Motion PASSED unanimously.

1

PUBLIC HEARING

1 a

7:00 P.M. PUBLIC HEARING - REGARDING DRAFT LEGISLATION TO REGULATE MEDICAL MARIJUANA DISPENSARIES WITHIN THE CITY LIMITS OF MCMINNVILLE: Mayor Olson advised that the public hearing would be legislative in nature and advised the audience of the various steps involved in the hearing. He opened the public hearing at 7:16 p.m. and requested a staff report.

STAFF REPORT: City Attorney Haines advised that the Council began hearing about this matter at its January 28, 2014 meeting and at that time, asked for a public hearing on the matter and asked staff to bring other options to them for consideration. Since that time, the State Legislature has been trying to pass clarifying legislation on the matter. She advised that until the Legislature acted, no one would know the exact parameters the City would be able to use to regulate the dispensaries.

PUBLIC TESTIMONY: Mayor Olson asked for public testimony.

Anthony Taylor, 1510 SW Friendly Court, stated that he was the Director of Compassionate Oregon. He spoke in support of medical marijuana dispensaries within the City and reminded the Council that, although this would be new and somewhat scary, the legislation is for the patient. He

noted that he did not have a problem with regulating time, place, and/or manner and he hoped that the Council would not impose a moratorium or outright ban.

Jim Galba, 524 SW Drumwood, said that he was the owner of H2 Organic, and he spoke in favor of legislation allowing medical marijuana dispensaries in McMinnville. He noted that he was interested in establishing a dispensary in McMinnville and stated that the owners of such establishments have rules that they are required by law to follow. He asked the Council how he could assist them with any questions or concerns that they might have.

Councilor Hill responded that the dispensary was not his greatest concern. To him, it is the federal law and the perception from his constituents. He stated that the majority of people that he has talked with have concerns regarding the dispensing of medical marijuana within the City.

Mr. Galba stated that he, too, had spoken with many people and their biggest concern is that they have to travel outside the City and now outside Yamhill County to find a dispensary. Medical marijuana dispensaries will not be unsafe. He opined that the "knee-jerk" reaction to this is that it is something new. He pointed out that laws are being enacted state by state and it is in everyone's best interest to work collectively and manage it rather than trying to fight it.

Adam Garvin, 2940 NE Lafayette Avenue, pointed out that he believed medical marijuana dispensaries would lessen the amount of marijuana on the black market because the marijuana would be sold legally in the dispensaries. There would be a safe access point. He reminded the Council that the community has a cancer center in its midst and, from a strictly compassionate standpoint, he asked the Council to pass legislation that would allow medical marijuana dispensaries in McMinnville.

CLOSE PUBLIC HEARING: Mayor Olson closed the public hearing at 7:52 p.m. after ascertaining that there was no more public testimony to be heard. He asked for Council discussion.

Councilor May asked about acting on an ordinance for which law has not yet been set. He asked for a recommendation from local law enforcement.

Police Chief Noble advised that staff had recommended the ordinance that expanded the 1000 food exclusion to include the Library, Community Center, and aquatic Center. He advised that staff is recommending that ordinance to the Council; or, the Council could vote to impose a moratorium.

City Attorney Haines added that the reason she believed that it would be wise for the Council to act at this

meeting is because this would be the last City Council meeting before the State of Oregon begins accepting medical marijuana dispensary applications. If the City does not have anything in place by the time registration opens, the registrar has no guidelines for the registrants. She stated that the City needs to have answers in place, hopefully before registrants spend \$4,000 to register. She would like to see the City treat everyone fairly and equally.

Councilor May asked about recommendations from professional law enforcement officials. Police Chief Noble stated that both the Oregon State Sheriff's Association and the Oregon Association of Chiefs of Police voted to add the ban back into the legislation.

Councilor Menke stated that she had very mixed feelings about the subject. She has family that had cancer and yet she realized that there could be significant problems in administering the program. She stated that the testimony had been excellent.

Councilor Hill agreed with Councilor Menke regarding the testimony. He acknowledged that some have deep-rooted feelings and that it will be a tough determination. He stated that at this point, he would lean toward what he has heard from his constituents.

Councilor Yoder asked how the Council was supposed to regulate something when they have no guidelines. City Attorney Haines explained that there was a discrepancy between the Legislative Counsel and the Legislature. Legislative Counsel believes that Senate Bill 3460 preempts local governments from having any say in restricting medical marijuana dispensaries. The League of Oregon Cities and others believe that local governments do have say. She explained that the bill currently in the legislature would give local governments some certainty. She believed that cities have the authority to at least regulate time, place, and manner.

Councilor Yoder stated his confusion because of not having any clear message from the State. He would like to help the City, but is dragging his feet until he knows what the legislature is going to do.

Mayor Olson opined that when there is discussion regarding a moratorium, it only "kicks the can down the road," and doesn't solve anything. Additionally, he stated that he does not personally believe that the City should put a moratorium in place just because federal law prohibits the use of marijuana. He stated that he believed that the Council has the ability to regulate dispensaries, even though they do not have the right to ban them outright. He stated that he believed the third option ordinance gives more reasoning and added materials after the first draft ordinance was crafted.

Mayor Olson asked Police Chief Noble's opinion regarding ordinance options one and three. Chief Noble stated that both effectively do the same thing with the addition of pre-schools in ordinance option three. Mayor Olson asked if the Council had the option of removing pre-schools from the list at a later time. City Attorney Haines confirmed that the Council does have that ability. She also pointed out that all of the options have emergency clauses to allow the ordinance to go into effect March 1, 2014.

Following a brief discussion, Councilor May MOVED to adopt ordinance option 3 with the inclusion of a ban; SECONDED by Councilor Hill. The vote was tied - AYE: Hill and May. NAY: Menke and Yoder. Mayor Olson broke the tie by voting NAY.

Councilor Menke MOVED to accept draft ordinance No. 3 as written; SECONDED by Councilor Yoder. The vote resulted in a tie: AYE: Menke and Yoder. NAY: Hill and May. Mayor Olson voted AYE to break the tie.

Mayor Olson asked City Attorney Haines to read the ordinance by title only.

City Attorney Haines read by title only Ordinance No. 4975 establishing regulations on the operation of medical marijuana facilities located in the City of McMinnville, and declaring an emergency. (No Councilor present requested that the ordinance be read in full.) The title of the ordinance was read for the second time.

Ordinance No. 4975 PASSED by a majority vote. AYE: Menke, Yoder. NAY: Hill, May. Mayor OLSON broke the tie vote with an "AYE" vote.

RECESS / RECONVENE: Mayor Olson called for a brief recess at 8:24 p.m. He reconvened the meeting at 8:33 p.m.

1 b

PUBLIC HEARING - REGARDING THE ADOPTION OF THE FINAL DRAFT ECONOMIC OPPORTUNITIES ANALYSIS (EOA) AS RECOMMENDED BY THE PLANNING COMMISSION AND THE EOA ADVISORY COMMITTEE: Mayor Olson opened the public hearing at 8:34 p.m. and asked for a staff report: Planning Director Montgomery entered the entire record including the minutes and the written testimony from the January 16, 2014 Planning Commission meeting. Additionally, he entered the final draft EOA and an e-mail from the Department of Land Conservation and Development dated January 21, 2014. Mr. Montgomery gave a historical perspective of the project, dating from 2011 when the City Council directed staff to assemble an ad hoc committee to work with staff and the consultant regarding an Economic Opportunities Analysis. In April 2012, the Council reviewed the draft and in October 2013, the committee concluded their work and the draft analysis. The draft analysis went before the Planning Commission in December 2013. The final draft EOA has a recommendation

from both the advisory committee and the Planning Commission for adoption of the Analysis.

Erick Hovee, 2408 Main Street, Vancouver, Washington, stated that he had been the City's consultant since the project's inception. He publicly acknowledged the generous contribution from Kimco Realty for funding of the Analysis.

Mr. Hovee explained that the purpose of the Economic Opportunities Analysis was to address the Department of Land and Conservation and Development's (DLCD) Goal 9 and to identify land needs for industrial, commercial, and other employment-related zones. The update was needed because the City's current EOA was quite outdated, not having been updated since 2001 and 2003, respectively. It is necessary to respond to changing economic pictures, most currently related to the recession and recovery. A new requirement of the EOA is that regional trends must be reviewed, along with coordinating the new population forecast which was completed in 2012. Additionally it looks at preparing for the next twenty (20) years with the City's changing industrial, commercial, and employment needs.

Mr. Hovee advised that along with strong participation from DLCD, the advisory committee thoroughly reviewed the EOA and the policy. Although not all of the members agreed on all of the tenets of the Analysis, there was general consensus to send it on to the Planning Commission. The Planning Commission reviewed the EOA at its December 14, 2013 meeting when the draft Analysis was introduced. The Planning Commission then held a public hearing at its January 15, 2014 meeting. After closing the public hearing, the Commission voted (5 - 3) to recommend that the City Council adopt the draft EOA as recommended by the EOA advisory committee. He noted that DLCD staff had given high marks to the EOA.

Mr. Hovee introduced and reviewed each of the major sections of the EOA. He recapped his report with emphasizing the EOA's importance to the City's Comprehensive Plan; the guidance received by the advisory committee; DLCD coordination; the opportunity for public scrutiny and testimony; and, the Planning Commission's review and recommendation of approval.

Following a brief round of thanks and questions from the Council members, Mayor Olson opened the public testimony portion of the hearing.

Bill Brown, Vice President of Development for Kimco, thanked the Council and staff for the extraordinary effort that had taken place. He stated his support of the draft EOA and urged its adoption. He acknowledged Kimco's financial partnership in funding the EOA and stated that they purposefully had no access to the committee during its study. He noted that to him the Analysis appeared to be a

favorable report and that it showed a surplus of industrial land and a deficit of commercial land. He stated that he felt the Planning Commission discussion was very interesting regarding the airport, the technical term "leakage" (when sales leave a market area), and the discussion of a local industrial business that has recently undergone difficult times. He lauded the report as a good foundation from which to build.

Mark Davis, 652 SE Washington Street, stated that as a member of the advisory committee, he supported the report and agreed with the two summaries. He noted that the committee had spent a majority of the time on Section 5, Forecast Employment and Land Needs, and although there were certainly grounds for argument, the group came to consensus. He stated that he was hopeful that the City would take another look at the EOA in another ten (10) years or so. He pointed out that the sales leakage comments on page 32 of the report refer to Yamhill County, not the City of McMinnville. He reminded all that the Analysis was supposed to be about the City of McMinnville. He cited a 2007 comparison of per capita retail sales figures that showed McMinnville's retail sales figures are the highest in Yamhill County and only slightly less than Salem figures. He believed that McMinnville has retail sales, but is lacking in manufacturing and suggested that the City's focus should be on bringing more industrial, higher paying jobs into the area. He agreed that there are currently limitations on getting product to market and that Interstate 5 will never be close. Mr. Davis further stated that he believed that commercial parcels larger than 10 acres are not what will be used for developing new retail centers and that he disagrees with the Analysis when it states that there will be a need for unforeseen opportunities in the commercial are. He would like to see that taken out of the final EOA.

Steve Iverson, 1033 SW Courtney Laine Drive, stated that he had observed the proceedings of the committee and the Planning Commission and although the EOA had a lot of positive valuable data, he felt that the conclusions drawn were weak and that it endorsed commercial development. He noted that those "plugs" were not surprising given that a commercial developer was the sponsor of the survey. He pointed out his disappointment that the Analysis did not highlight the need for higher paying industrial jobs. There was good discussion at the Planning Commission regarding the airport and lack of discussion about the airport within the Analysis.

Sid Friedman, P O Box 1083, spoke on behalf of Friends of Yamhill County. He thanked all involved with the EOA project and advised that he believed the current draft of the EOA was much improved over the original draft. He agreed that the EOA had generated controversy because of the funding by Kimco. He opined that McMinnville jobs are already heavy in retail, which provides lower paying jobs.

McMinnville should focus its commercial efforts on keeping big box stores along Highway 99W where current zoning allows commercial development. He pointed out that luring drivers to McMinnville goes against the sustainability goals of the Council.

Jody Christensen, Executive Director of McMinnville Economic Development Partnership, stated that as a member of the advisory committee, she never saw Mr. Brown or other representatives of Kimco at one of the advisory committee's meetings. She stated that the EOA document is an important planning document and it is a good place to start. She stated that McMinnville will be facing extraordinary opportunities in the future and she agreed that all the items brought forth in the document are important. She stated that she "lives and breathes" the industrial arena and understands that it is necessary to have a full offering of assets in our community. She advised that there is a need for balance as the City will require both industrial and commercial lands in the future.

Responding to an inquiry from Councilor May, Ms. Christensen agreed that 34 percent of the population leaves Yamhill County to go to work. There is great potential for a local work force.

CLOSE PUBLIC HEARING: Mayor Olson closed the public hearing at 9:36 p.m., and asked for Council discussion.

A brief Council discussion regarding the positive attributes of the Analysis was held. It was noted that while the City needs to protect its prime industrial lands, there is a good deal of land that is vacant and not employing anyone.

City Attorney Haines read by title only Ordinance No. 4976 adopting an updated "McMinnville Economic Opportunities Analysis" as part of the McMinnville Comprehensive Plan, and repealing Ordinance No. 4795. (No Councilor present requested that the ordinance be read in full.) The title of the ordinance was read for the second time.

Ordinance No. 4976 PASSED by a unanimous roll-call vote.

2

OLD BUSINESS

2 a

APPOINTMENTS TO THE TRANSIENT LODGING TAX ADVISORY COMMITTEE: City Manager Taylor reminded the City Council that the following individuals had been asked and had agreed to participate as committee members of the Transient Lodging Tax Committee: members of the lodging community Erin Stephenson, Liz Rolland, and Ty Rollins; business member Cindy Lorenzen; citizen-at-large Bruce Wyatt; Cassie Sollars, Executive Director of the McMinnville Downtown Association; Nathan Knottingham as the local Chamber of Commerce representative, and City Manager Kent Taylor, who will serve as staff and ex-officio.

Councilor May MOVED to appoint the above members to the Transient Lodging Tax Committee; SECONDED by Councilor Yoder. Motion PASSED unanimously.

3

ORDINANCES

3 a

AMENDING CERTAIN CHAPTERS OF THE McMinnville Zoning Ordinance TO COMPLY WITH RECENTLY PASSED STATE LEGISLATION, AND TO ADD TASTING ROOMS AS A PERMITTED USE IN THE M-L (LIMITED LIGHT INDUSTRIAL) ZONE: Principal Planner Pomeroy advised that the proposed ordinance amends certain chapters of the Zoning Ordinance and would add the ability to have tasting rooms in a Limited Light Industrial zone. He advised that this matter had been before the Planning Commission on January 16, 2014 and the Commission had unanimously recommended approval to the City Council.

City Attorney Haines read by title only Ordinance No. 4977 amending certain chapters of the McMinnville Zoning Ordinance to comply with recently passed State legislation, and to add Tasting Rooms as a permitted use in the M-L (Limited Light Industrial) zone. (No Councilor present requested that the ordinance be read in full.) The title of the ordinance was read for the second time.

Ordinance No. 4977 PASSED by a unanimous roll-call vote.

4

RESOLUTIONS

4 a

ADOPTING A SUPPLEMENTAL BUDGET, MAKING SUPPLEMENTAL APPROPRIATION, AND MAKING A BUDGETARY TRANSFER FOR THE PURCHASE OF POLICE AND MUNICIPAL COURT COMPUTER HARDWARE AND SOFTWARE: Information Systems Director Paolo explained that many of the Police Department and Municipal Court computers run on the Microsoft XP operating system, which is outdated and will not be supported by Microsoft after April 8, 2014. Some of these systems access the Law Enforcement Data System (LEDS) under the direction of the FBI and when the state learned that Microsoft would no longer support this operating system, they informed all agencies that under no circumstance would they allow LEDS to be run on any Windows XP system after April 8, 2014. Although the City was planning for these upgrades in the next Fiscal Year (2014-15), it was necessary to accelerate that time line.

Councilor Menke MOVED to adopt Resolution No. 2014-3 adopting a Supplemental Budget for fiscal year 2013-2014, making supplemental appropriations, and making a budgetary transfer; SECONDED by Councilor May. Motion PASSED unanimously.

4 b

REQUIRING MANDATORY PREQUALIFICATION FOR ALL PERSONS DESIRING TO BID FOR CERTAIN PUBLIC IMPROVEMENT CONTRACTS THAT ARE TO BE LET BY THE CITY OF McMinnville: Community Development Director Bisset referenced the memorandum in

the Council's information materials and stated that the proposed resolution would put the City in compliance with state law with regard to the prequalification of contractors.

Councilor Hill MOVED to adopt Resolution No. 2014-4 requiring mandatory prequalification for all persons desiring to bid for certain public improvement contracts that are to be let by the City of McMinnville; SECONDED by Councilor Menke. Motion PASSED unanimously.

5 ADVICE / INFORMATION ITEMS

5 a and b REPORTS FROM COUNCILORS ON COMMITTEE AND BOARD ASSIGNMENTS AND DEPARTMENT HEAD REPORTS: Because of the lateness of the hour, no reports were heard.

6 ADJOURNMENT: Mayor Olson adjourned the Regular Meeting at 9:54 p.m.

Rose A. Lorenzen, Recording Secretary