



# City of Oregon City

625 Center Street  
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## Meeting Minutes - Final

### City Commission

*Dan Holladay, Mayor*  
*Rocky Smith, Jr., Commission President*  
*Brian Shaw and Renate Mengelberg*

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Tuesday, August 9, 2016

5:30 PM

Commission Chambers

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### Work Session - REVISED

#### 1. Convene Work Session and Roll Call

*Mayor Holladay called the meeting to order at 5:40 PM.*

**Present:** 4 - Commissioner Brian Shaw, Commissioner Rocky Smith, Mayor Dan Holladay and Commissioner Renate Mengelberg

**Staffers:** 9 - Tony Konkol, Public Works Director John Lewis, Community Development Director Laura Terway, Human Resources Director Jim Loeffler, Economic Development Manager Eric Underwood, Police Chief and Public Safety Director James Band, City Recorder Kattie Riggs, Assistant City Attorney Carrie Richter and Pete Walter

#### 2. Future Agenda Items

*Mayor Holladay wanted to revisit the issue of the Commission's participation in the Regional Wastewater Treatment Capacity Advisory Committee.*

#### 3. Discussion Items:

##### 3a. History of Regulating Membrane (Fabric and Metal) Residential Accessory Structures

*Laura Terway, Community Development Director, said several Code Enforcement complaints had been received regarding membrane structures. Membrane structures were accessory buildings used for storage and she explained per Municipal Code that the structures were not allowed if they were visible in the right-of-way. This standard was adopted in 2011 and it was retroactive, did not allow for grandfathering, and these structures had to be removed in six months. She gave a history of how the Code had been changed and the adoption process for the changes that occurred in 2011. She then explained the reasons for the regulation and public outreach that was done. Some of the concerns from the public were these structures had permits, there were a variety of structure types, the cost, lack of proactive enforcement, and there were no complaints from nearby properties. She gave a history of Code Enforcement actions and how there had not been a lot of violations in the past, but several came forward in June as one person complained about 35 structures. The standards could not be ignored as they were in the City's Code, however the Code could be changed through a legislative application. The reason the Code was retroactive was these structures were temporary in nature and it was difficult to distinguish what was in good repair and what was in poor repair.*

*Mayor Holladay thought it was unfair to put something like this in place and not*

grandfather those who already had the structures at least until property ownership changed.

Frank O'Donnell, resident of Oregon City, read his prepared testimony. He thought this was a well-intentioned piece of legislation, but had some unintended consequences. Mr. O'Donnell thought these were not temporary structures. He did not think this should be retroactive as it disregarded previously made land owning decisions and choosing building sites. The Code did not focus on the root cause of the problem, which was nuisances created by solid waste and junk. It identified the structure as the thing to be controlled. The focus of the Code was cosmetic in nature and not health and safety. These structures could withstand weather and the elements and many were properly anchored. The life expectancy was 30-50 years. Similar structures existed in the Oregon City maintenance yard, parks, schools, gas stations, storage sheds, and the End of the Oregon Trail. The Code did not differentiate between a properly installed anchored structure located behind fences and front property lines and unanchored insufficiently restrained structures in front of residences that might go tumbling down in the wind. Many of these structures were multi-use and membrane construction was recognized and widely used. He suggested grandfathering in existing structures, possibly opening up a free registration period for owners of existing structures to record their structures, and refining the existing Code with a focus on public health, safety, and welfare which was the proper role of government.

Mike Crawford, resident of Oregon City, passed around some pictures of his structure. In 1988 he put in a carport and the structure was still up and was on the back of his property. There were ordinances against a fence height that would block it. He would like to see these types of structures grandfathered.

Teresa Hayworth, resident of Oregon City, thought the intent of the Code was not safety related, but more associated with aesthetics. There were many structures that were visible in her block and she did not usually notice them. They were anchored down and in good condition and a lot were made from aluminum which lasted a long time. She thought they were more permanent structures, were expensive, and were well maintained. The structures had become part of their properties and she would like to have the freedom to keep hers.

Brian Gibson, resident of Oregon City, said his structure was used to cover an investment. It was put up prior to the Code change and it would create a hardship to take it down. He would like it to be grandfathered in or come up with a compromise.

Jeanette Kmetc, resident of Oregon City, bought her house in 2003 and she had a metal structure that was barely visible from the street. It was pre-existing to the Code change and she hoped it could be grandfathered as she did not want to have to take it down.

Mayor Holladay thought grandfathering was a valid concern. He suggested holding in abeyance any further Code Enforcement action until staff came back with a recommendation to the Commission.

Carrie Richter, City Attorney, said staff needed to look at where the Code Enforcement actions were in the process. The Commission could also start the process for amending the Code.

Jim Band, Police Chief, stated for these types of issues, the City worked with everyone and gave them time to comply. He did not think abeyance was necessary and the Commission could change the policy as they desired.

Mayor Holladay asked staff to bring back a recommendation to the City Commission for possible options in September. Mr. Konkol said if the Commission wanted to look at this Code, staff would take that into consideration as far as Code Enforcement was concerned.

**3b. Time, Place and Manner Regulations for Marijuana Businesses and Personal Cultivation**

Pete Walter, Planner, said the Planning Commission held a public hearing on marijuana business regulations and they forwarded the regulations to the City Commission with some amendments. He discussed the State laws and bills that had been passed regarding marijuana, current City policy which was a temporary ban until the November vote, public outreach, web based survey results, zoning, school, transit, city parks, and childcare buffers, where retail/dispensaries were permitted and how they were prohibited in residential zones, producer permitted areas, wholesaler permitted areas, and proposed standards of operation.

Mayor Holladay wanted to make sure they were fair in regard to where these uses were prohibited and the buffers required. He thought there needed to be more clarity on outdoor storage and the ability to load and unload product.

Mr. Walter said the Planning Commission held two public hearings on this issue. Some of the concerns were outdoor vs. indoor personal cultivation, odor nuisance, Land Use Compatibility Statement process, business license process, 1,000 foot buffer around Clackamas Community College, increased school buffer to 1,500 feet, requiring 1,000 foot separation between individual retail uses, and prohibiting retail use in the Canemah National Register District. The amendments recommended by the Planning Commission were: outdoor cultivation for personal grows would align with State law, there should be a minimum of 1,000 square feet between retail uses, and retailers would not be allowed in the Canemah District due to compatibility. He then discussed what other cities were doing in regard to marijuana regulations and discussed the tax revenue that would be dispersed by the State. A City Commission public hearing was scheduled for August 17, 2016.

There was discussion regarding the buffers and possibly limiting the number of retailers allowed in the City. There was further discussion regarding the Planning Commission's concerns.

Commissioner Mengelberg recommended using the boundary of the College as the buffer.

Tom Geil, resident of Oregon City, explained the Planning Commission's deliberations on this issue. It took a lot of compromise and he thought they had come up with the best solutions. Going with what the State said for personal grows was a compromise. The Clackamas Community College buffer was due to minors being on the campus and there needed to be more protections. The reason there was only one liquor store in the City was because it was based on population.

Mayor Holladay had an issue with adding a 250 foot buffer around parks. He did not see the marijuana facilities as different from a convenience store except that they could only do business in cash. He did not think a buffer would prevent kids from seeing the stores. The 1,000 foot buffer from schools was enough. He hesitated to single out the Canemah District for excluding marijuana businesses.

Commissioner Smith thought there should be a park buffer. He thought the buffer around the college should match the buffer around the high school. He was unsure

*about the Canemah District issue.*

*There was discussion regarding what other cities did regarding park buffers.*

*Commissioner Mengelberg thought if the Canemah District felt strongly about not wanting it in their area, she would respect that. It seemed like a good place for it from a business standpoint.*

*Mr. Konkol had a concern regarding the security of the outdoor personal grows as well as impacts to neighbors.*

*There was discussion regarding crime surrounding marijuana, livability, and keeping it away from children.*

*Mr. Walter said the odor issue would be handled by Code Enforcement. The outstanding issues were the 1,000 foot buffer around the college, prohibiting retail use in the Canemah District, requiring a 1,000 foot separation between retail uses, and staff would come back with a map indicating removal of the 250 foot buffer for parks, day care facilities, and transit centers to show what it meant for retail sites. Staff would also work on the regulation for maneuvering and transporting the product without violating the outdoor storage regulations.*

#### **4. City Manager's Report**

*Mr. Konkol would be on vacation August 18-23, 2016.*

*Mr. Lewis said the paving on Molalla Avenue and Singer Hill had been put off due to the weather, but was going to start tomorrow, August 10, 2016.*

#### **5. Adjournment**

*Mayor Holladay adjourned the meeting at 7:54 PM.*

*Respectfully submitted,*

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*Kattie Riggs, City Recorder*