



City of Oregon City

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Oregon City, OR 97045
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Meeting Minutes - Final

City Commission

Dan Holladay, Mayor
Rocky Smith, Jr., Commission President
Brian Shaw, Nancy Ide, Renate Mengelberg

Wednesday, October 19, 2016

7:00 PM

Commission Chambers

1. Convene Regular Meeting and Roll Call

Mayor Holladay called the meeting to order at 7:03 PM.

Present: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Nancy Ide

Staffers: 11 - City Manager Tony Konkol, Assistant City Attorney Carrie Richter, City Recorder Kattie Riggs, Police Chief and Public Safety Director James Band, Public Works Director John Lewis, Economic Development Manager Eric Underwood, Library Director Maureen Cole, Human Resources Director Jim Loeffler, Community Development Director Laura Terway, Finance Director Wyatt Parno and Community Services Director Phil Lewis

2. Flag Salute

3. Ceremonies, Proclamations

3a. Proclamation Declaring November 1, 2016 as Extra Mile Day

Mayor Holladay declared November 1, 2016, as Extra Mile Day.

4. Citizen Comments

Sherry Morisch, resident of Molalla, said she recently became the marketing representative for WFMC Studios. WFMC was trying to reach out more to the community and offering their services. WFMC was celebrating Free Speech Week this week and tomorrow would be Community Media Day where the studio would be open to the community to produce projects.

Tom Geil, resident of Oregon City, encouraged the Commission to get on Oregon City Chit Chat. There had been a discussion regarding why Oregon City residents often did not go downtown and suggestions for how to change it.

5. Adoption of the Agenda

The agenda was adopted as presented.

6. General Business

6a. Second Reading of Ordinance No. 16-1008: Time, Place and Manner Regulations for Marijuana Businesses (Planning File LE-16-0001)

Laura Terway, Community Development Director, stated this was the process for adopting time, place, and manner regulations for marijuana businesses. There would be a measure on the November 2016 ballot asking if marijuana businesses should be allowed in the City and this provided a framework for where and how those businesses would operate. There had been a series of open houses, public hearings, and online surveys and the feedback had been implemented into the proposed regulations. If approved, this ordinance would go into effect on December 30, 2016 and marijuana businesses would be allowed in the City on January 1, 2017. The 1,000 foot buffer between retail stores would be on a first application basis, the first application in would determine where the buffer would be.

Jane Grimm, resident of Oregon City, said there was concern in the community regarding homelessness and disadvantaged youth. These types of businesses would bring revenue to the City which could be used for a warming house or a friendly house for children or a community center where children could go.

A motion was made by Commissioner Ide, seconded by Commissioner Smith, to approve the second reading and final adoption of Ordinance No. 16-1008: time, place and manner regulations for marijuana businesses (Planning File LE-16-0001). The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Nancy Ide

6b. Ordinance No. 16-1010: Adopting a Ban on Outdoor Cultivation of Marijuana

Ms. Terway said in the discussions regarding marijuana regulations, there had been input on personal outdoor cultivation of marijuana. Outdoor cultivation was not allowed for marijuana businesses, but could be allowed for personal cultivation. The Planning Commission recommended allowing it, but after more public input there was concern that it could be a nuisance due to the odor, possible trespassing and theft, and visual exposure to kids. Staff was directed to come up with regulations prohibiting personal outdoor cultivation and this was the second reading of the ordinance. If approved, the ban would go into effect in 30 days. If the ordinance was not approved, personal outdoor cultivation would still be allowed.

Carrie Richter, City Attorney, said most of the marijuana regulations related to regulating businesses, not personal use. A few cities had prohibited outdoor personal grows, and there was a challenge right now in Grants Pass about that issue. People were allowed to grow four plants for personal use and the HB 4014 said a city may not limit that privilege. It was unclear whether a city could put time and manner restrictions on it. State law did say that the homegrown marijuana could not be readily seen by normal unaided vision from a public place. The cities that had put the outdoor restriction on personal grows did so before the new legislation came out in 2016.

Mayor Holladay said all of the challenges were happening before the final signing of Measure 91. He was concerned about Oregon City being challenged on this and he did not want to be a test case on this issue.

Ms. Richter summarized the choices for the Commission. They could adopt the ordinance to ban outdoor personal grows as it was drafted, direct staff to come back

with an ordinance that restated State law, direct staff to draft an odor nuisance regulation, or abandon the effort.

Mayor Holladay suggested not passing the ordinance and monitoring this for a year to see if there were any complaints and then deal with the problem if there was one.

Matthew Sulser, resident of Oregon City, said marijuana provided medical benefits and many depended on it as an alternative to more costly and sometimes addictive or harmful pharmaceutical drugs. Marijuana was a non-toxic medicinal resource. Growing the plant outside was relatively inexpensive as indoor growing required expensive lighting and proper ventilation. Dispensaries were expensive and some people might not have the indoor space. The aroma from the plant was string dependent and it only appeared at the end of the plant's growth and lasted only a few weeks. An indoor grow might produce more odor as the heavily saturated air was vented outside. Rather than theft of a plant from the yard, an indoor grow could encourage a burglary and possibly endanger the lives of the residents. Marijuana was easily accessible to youth and had been for decades. Outdoor cultivation of the plant created no new threat to the health of children. Voters passed Measure 91 in 2014 allowing people to grow four plants per household. The logical place to grow a plant was in the yard and a marijuana plant posed no public hazard or nuisance.

Ryan LaFrenier, resident of Oregon City, had no interest in growing marijuana. He was concerned about the violation of property rights and being told what he could or could not grow on his property when he paid taxes to the City. It was not right to do this on a what if basis. People had been given the right through the State and he thought there should be no more discussion about it.

Paige Hirt, resident of Oregon City, was representing Oregon City Together, a local coalition to reduce youth substance abuse. She was concerned about access to the marijuana plants in people's yards. The state of Colorado did not allow outdoor grows for personal use. It had to be in an enclosed locked area that could not be viewed openly. For homes with minor children it had to be locked in a separate space that youth could not access. She thought outdoor grows would increase access to youth. If they took no action on this ordinance and monitored to see if there was a problem, how would they measure that. It was the adults' responsibility to take care of their youth.

Jane Grimm, resident of Oregon City, thought drug education should come from the home and there were parents who were not watching out for their kids. There were a lot of disadvantaged youth, but she did not think that fact should impinge upon her rights as an Oregonian. She thought they should open up a friendly house center to help with the issue instead of taking a hardnosed approach.

Tom Geil, resident of Oregon City, had worked with children in juvenile facilities and the problem was not marijuana but access to pills and alcohol. There was already a way to deal with nuisances in the Code and if someone wanted to report a nuisance, that was a way to watch the numbers. If they let the existing Code for nuisances be their guide, it would be a good way to find out if there was a problem.

Jim Band, Police Chief, said there had been complaints, but he had been telling everyone that staff was waiting for a decision from the Commission.

Mayor Holladay said the complaints needed to be documented.

Commissioner Smith thanked everyone for the public testimony. He was concerned about making decisions on other people's property. He thought they would end up in

court. People should be educated about keeping the plants away from public view if they were planted outdoors, but he did not think they needed to limit it to indoor growing only.

Commissioner Shaw was on the side of the kids. He would rather see it be an outside nuisance than inside where the children were.

Commissioner Mengelberg did not want to be a test case. Most of the public testimony had been in favor of allowing outdoor growing. The Planning Commission recommendation was to allow outdoor growing, and she thought the State law should stand and not force it to only be grown indoors.

Commissioner Ide was not eager to invite a law-suit and did not want to prohibit outdoor personal grows. She was an advocate of property rights and thought prohibiting it would lead to a law-suit.

The consensus was to leave this as it was for the time being, collect data about complaints or other issues, and revisit it in a year.

6c.

First Reading of Ordinance No. 16-1011: Amendment of Oregon City Municipal Code Chapter 12.16 to Include a New Section 12.16.070 - Park Exclusions

Phil Lewis, Community Services Director, said due to the high rate of repeat offenders in Oregon City parks, this ordinance was being proposed to exclude the offenders from the parks for a certain amount of time. Police Officers would be giving the exclusions after the offender received a warning. A first time offender would receive a 30 day exclusion, the second time would be 90 days, and the third time would be 120 days. There was also an appeals process.

A motion was made by Commissioner Shaw, seconded by Commissioner Smith, to approve the first reading of Ordinance No. 16-1011: amendment of Oregon City Municipal Code Chapter 12.16 to include a new section 12.16.070 - park exclusions. The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Nancy Ide

6d.

First Reading of Ordinance No. 16-1012: to Ban the use of Tobacco in Oregon City Public Parks

Mr. Lewis said there were some questions that came up during the Work Session on the tobacco free parks ordinance. The Parks and Recreation Advisory Committee had recommended tobacco products be banned from the City's parks. He talked with the County's Tobacco Prevention Coordinator regarding why a city would have tobacco free parks, and he was told it was for health, environmental, and fire risk benefits. There were several other jurisdictions nationally that had similar ordinances including many neighboring cities. The North Clackamas Park District conducted a tobacco survey for their 2012 Master Plan. In the survey 78% were in support of a tobacco free policy and 89% were neutral or supportive. This would be peer enforced and there would be signage placed at the parks.

Commissioner Smith said smoking marijuana was included, but not the consumption of edibles. Ms. Richter said they could add banning any type of tobacco or cannabis product to the ordinance.

Commissioner Shaw said there was a lot of education regarding how bad smoking was and when kids saw the behavior, they thought it was ok. He agreed with the ordinance as written.

Commissioner Ide asked if there had been complaints about smoking in parks. She was hesitant to take away people's rights to smoke outside. She was not in support of the ordinance. Mr. Lewis did not know the number of complaints. The ordinance was brought forward by the Parks and Recreation Advisory Committee. Smoking was prevalent in parks, but he did not know the extent of it being a nuisance to park users.

Mike Mitchell, resident of Oregon City, was a member of PRAC. On more than one occasion members of the public came to PRAC to request a ban on smoking in parks. PRAC looked at what other cities did, and it looked like there was a trend to have this kind of ordinance in place.

Commissioner Mengelberg asked where else in the City was smoking banned. Tony Konkol, City Manager, said there was a ban on some of the campuses, like City Hall and the Pioneer Center.

Mayor Holladay thought the Commission's job was restricting as little as possible the public's rights and freedoms while maintaining order and discipline inside the City. He was not in support of this ordinance.

Commissioner Shaw was in favor of the ordinance. Commissioner Smith thought the ordinance should be consistent for both tobacco and marijuana products.

Commissioner Mengelberg said the point of the ordinance was to address the perceived nuisance and litter problems and second hand smoke impacts that some people found objectionable. The edible marijuana products were not nuisances or maintenance problems like other tobacco products were. She did not see a need to add edibles to the list.

A motion was made by Commissioner Shaw, seconded by Commissioner Mengelberg, to approve the first reading of Ordinance No. 16-1012: to ban the use of tobacco in Oregon City public parks. The motion passed by the following vote:

Aye: 3 - Commissioner Brian Shaw, Commissioner Rocky Smith and Commissioner Renate Mengelberg

Nay: 2 - Mayor Dan Holladay and Commissioner Nancy Ide

7. Consent Agenda

A motion was made by Commissioner Smith, seconded by Commissioner Mengelberg, to approve the consent agenda. The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Nancy Ide

7a. Interim Agreement with Rediscover the Falls and Metro

7b. Personal Services Agreement with DECA Architecture, Inc. for the

2016 Public Works Operations Master Plan Update (CI 16-015)

- 7c. Resolution 16-30 Supporting the National Flood Insurance Program's Community Rating System 2016 Recertification for Oregon City
- 7d. OLCC: Liquor License Application- On-Premises Sales, New Outlet, Applying as a Corporation, Ruby's Pub and Grill, 527 Main Street, #B, Oregon City, OR
- 7e. Minutes of the August 7, 2016 Regular Meeting
- 7f. Minutes of the August 17, 2016 Special Meeting
- 7g. Minutes of the September 7, 2016 Special Meeting

8. Communications**a. City Manager**

John Lewis, Public Works Director, gave an update on the Molalla Avenue completion project. He applied for a Metro grant to do the project and right now they were taking public comments on the application. There would be a presentation on the project on November 3, 2016. They needed to get as much support as possible.

Chief Band discussed the procurement of C-800 equipment for Dispatch and how there was concern about sole source contracting and that the same issues that happened in Washington State would happen in this purchase. In Washington it was a statewide system and there were huge cost overruns. For this purchase a needs assessment had been done as well as an RFP process and Motorola was chosen. Motorola was going to demonstrate that Oregon City would be getting the same pricing as other agencies. If at any time they would not get a better price, then an RFP process would be done. Citizen oversight was also built into this program to make sure there were no cost overruns. There needed to be communications between all of the jurisdictions and this new equipment would allow for that.

Mayor Holladay thought Motorola had a long history of quality engineering in radio communications and there was a need for jurisdictions to communicate with each other especially in emergency situations.

Commissioner Mengelberg said the towers were large and obtrusive and she thought that more would be placed in Oregon City.

Mr. Konkol said there would be a kid's pumpkin decorating contest on October 29, 2016 at the Caufield House and trick or treating on Main Street on October 31, 2016. The Clackamas Cities Association Dinner would be held on October 25, 2016. The Work Session on November 8, 2016 was cancelled due to the election, and there would be Work Sessions before the November 2, 2016 and November 16, 2016 meetings.

b. Commission

Commissioner Mengelberg attended the MPAC (Metro Policy Advisory Committee)

meeting where disposing of food waste and converting it into energy was discussed, the C4 (Clackamas County Coordinating Committee) meeting where she helped advocate for the Molalla Avenue project, and Library Grand Opening.

Commissioner Shaw attended the Ribbon Cutting for the Windermere Real Estate office, Clackamas County Business Alliance meeting, Canby Library Grand Opening, Oregon City Library Grand Opening, and Park Place Neighborhood Association meeting.

Commissioner Smith also attended the Library Grand Opening.

Commissioner Ide attended the Park Place Neighborhood Association meeting, Optimist Club meeting, Library Grand Opening, and Downtown Oregon City Board meeting.

c. Mayor

Mayor Holladay appointed Commissioner Ide to the Downtown Oregon City Board. He attended the C4 subcommittee meeting. He encouraged everyone to vote in the November 2016 Election.

9. Adjournment

Mayor Holladay adjourned the meeting at 8:38 PM.

Respectfully submitted,

Kattie Riggs, City Recorder