



A place where families and businesses thrive.

Monday, July 11, 2016
City Council Regular Meeting Minutes 7:00 p.m., **Community Auditorium**

***Minutes are unofficial until approved by Council.
Council approved minutes as presented August 8, 2016.***

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the regular City Council meeting to order at 7:01 p.m. and led the Pledge of Allegiance.

ROLL CALL: COUNCIL PRESENT: Thomas Johnston, Council President (attended by conference call starting at 7:24 p.m. and remained until the meeting adjourned); Richard Kidd; Victoria Lowe; Elena Uhing; and Mayor Peter Truax. **COUNCIL ABSENT:** Ronald Thompson and Malynda Wenzl (attended by conference call starting at 7:32 p.m. and lost cellular connectivity at 7:53 p.m.), excused.

STAFF PRESENT: Jesse VanderZanden, City Manager; Ashley Driscoll, City Attorney; Paul Downey, Administrative Services Director; Jon Holan, Community Development Director; Colleen Winters, Library Director; Kevin Ellingsburg, Police Captain; Rob Foster, Public Works Director (in the audience); Michael Kinkade, Fire Chief (in the audience); and Anna Ruggles, City Recorder.

1. A. EMPLOYEE RECOGNITION:

Mayor Truax and Winters presented a Certificate of Appreciation honoring Linda Taylor, Adult Services Librarian, for 18 years of dedicated service to the City, noting Taylor worked for the City from 1979-1984 as a Librarian and 1998-2002 as a Temporary Youth Services Librarian prior to becoming a City employee in 2003 as the Adult Services Librarian. Mayor Truax commended Taylor for her legacy as an outreach coordinator in the Latino community as well as the many other programs that Taylor has coordinated throughout her career as the Adult Services Librarian.

2. CITIZEN COMMUNICATIONS: None.

3. CONSENT AGENDA:

Items under the Consent Agenda are considered routine and are adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the remaining Consent Agenda item(s).

- A. Approve City Council Regular Meeting Minutes of June 13, 2016.
- B. Approve City Council Work Session (City Code Update) Meeting Minutes of June 13, 2016.

- C. Accept Historic Landmarks Board Meeting Minutes of May 24, 2016.
- D. Accept Public Safety Advisory Commission Meeting Minutes of April 27 and May 25, 2016.

MOTION: Councilor Uhing moved, seconded by Councilor Lowe, to approve the Consent Agenda as presented. **ABSENT:** Council President Johnston and Councilors Thompson and Wenzl. **MOTION CARRIED 4-0 by voice vote.**

Council President Johnston joined by conference call at 7:24 p.m.

Councilor Wenzl joined by conference call at 7:32 p.m. and lost cellular connectivity at 7:53 p.m.

- 4. **ADDITIONS/DELETIONS:** None.
- 5. **PRESENTATIONS:** None.
- 6. **SECOND READING OF ORDINANCE NO. 2016-13 AMENDING FOREST GROVE CITY CODE CHAPTER 2, GOVERNMENT AND ADMINISTRATION, BY ADDING NEW CODE SECTIONS 2.705 TO 2.710, ESTABLISHING MUNICIPAL COURT JURISDICTION; ADDING NEW CODE SECTIONS 5.375 TO 5.390, ESTABLISHING EXCLUSION FROM CITY FACILITY OR PROPERTY; AND AMENDING CITY CODE CHAPTER 5, PUBLIC PROTECTION, ABATEMENT-RELATED PROCEDURES AND OTHER PROVISIONS**

The first reading of Ordinance No. 2016-13 by title occurred at the Council meeting of June 27, 2016.

Staff Report:

Ellingsburg and Downey presented the above-proposed ordinance for second reading, noting staff had nothing further to report; however, staff distributed copies of Parks and Recreation Commission and Public Safety Advisory Commission minutes and Park Regulations, rules of conduct, as requested by Council at the meeting of June 27, 2016.

Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of June 27, 2016, and explained hearing procedures.

Written Testimony Received:

No written testimony was received prior to the published deadline of July 11, 7:00 p.m.

Proponents:

No one testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Hearing no discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of June 27, 2016.

VanderZanden read Ordinance No. 2016-13 by title for second reading.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Thompson and Wenzl. MOTION CARRIED 5-0.

7. SECOND READING OF ORDINANCE NO. 2016-14 AMENDING FOREST GROVE DEVELOPMENT CODE ARTICLES 3, 8 AND 12 FOR THE PURPOSES OF ADOPTING TIME, PLACE AND MANNER RESTRICTIONS FOR MARIJUANA FACILITIES; CLASSIFYING MARIJUANA FACILITIES; AND ADOPTING DEFINITIONS; FILE NO. 311-16-00034

The first reading of Ordinance No. 2016-14 by title occurred at the Council meeting of June 27, 2016.

Staff Report:

Riordan and Holan presented the above-proposed ordinance for second reading and a PowerPoint presentation recapping the Planning Commission's recommendations with respect to limiting marijuana facilities in Light Industrial zone (LI). Riordan explained the Planning Commission is recommending prohibiting indoor marijuana producers, processors, wholesalers in LI in order to preserve land for high value and value added manufacturing and processing. The Planning Commission is also recommending prohibiting outdoor medical and recreational marijuana producers within all zones consistent with PSAC's recommendation. In addition, Riordan and Holan advised Council has the following options regarding the effective date of the above-proposed ordinance as noted below:

- Taking no action regarding the effective date, which would allow two business days in which applications would be reviewed based on code requirements adopted March 28, 2016, instead of the restrictions in the above-proposed ordinance, meaning outdoor recreational marijuana producers would be allowed

during the two business days as well as marijuana producers, processors and wholesalers in LI.

- Enacting the above-proposed ordinance effective immediately or date certain less than 30 days and declaring an emergency for preservation of public, health, safety and welfare.

In conclusion of the above staff report, Riordan and Holan advised the Planning Commission's recommendations allow the City to impose up to a three percent tax on recreational marijuana sales as allowed by state law, since the City is not banning any of the seven marijuana facility types, including recreational marijuana producers, since indoor production would be allowed in GI. In addition, Riordan and Holan provided a handout titled "Council Deliberations", which outlined options Council could take if amending the above-proposed ordinance, Exhibit A.

Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of June 27, 2016, and explained hearing procedures.

Written Testimony Received:

In addition, Riordan and Holan referenced a written letter from the Public Safety Advisory Commission (PSAC) reaffirming PSAC's support and recommendations to Council, noting the points outlined in PSAC's letter support PSAC's rationale and belief that the safety of the public should be of the upmost concern for the City.

No other written testimony was received prior to the published deadline of July 11, 7:00 p.m.

Proponents:

No one testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Wenzl lost cellular connectivity at 7:53 p.m. and after numerous attempts to try to reconnect, staff discontinued efforts.

In response to Kidd's inquiry pertaining to the building that is vacant in LI (Matsushita site), Riordan referenced the building as shown on the aerial map, noting the building has been vacant at least 10 years. In response to Kidd's inquiry pertaining to the ordinance effective date, City Attorney Driscoll referenced City Charter, noting an ordinance may have a 30-day or later effective date and/or anything less than 30 days must contain an emergency clause. In response to Kidd's inquiry pertaining to number of allowable plants for indoor medical and recreational grow, City Attorney Driscoll advised for recreational marijuana, a licensee would be allowed up to 10,000 square feet of canopy indoors and for medical marijuana, a licensee would be allowed up to 48 plants if grown indoors within non-residential zones consistent with state law.

Uhing spoke about the building referenced in earlier testimony that has been vacant for 10 years (Matsushita site), noting the building has drawn complaints from neighbors because of upkeep. In response to Uhing's inquiry pertaining to employment plans, Riordan indicated it is his understanding based on testimony heard on June 27, 2016, that the tenant would utilize the building for marijuana production and employ 50 employees. In response to Uhing's inquiry pertaining to site plan review versus conditional use, Riordan explained in respect to marijuana production a conditional use provides livability and compatibility and requires Planning Commission (quasi-judicial) review, including a public hearing, as well as appealable to Council; whereas, a site plan review provides compliance with development standards and is an administrative review with no public hearing and appealable to the Planning Commission. In response to Uhing's concern pertaining to the relevance of signage referenced in PSAC's letter, City Attorney Driscoll cited state law for signage requirements for recreational and medical production facilities. Riordan added all applicants must also comply with the City's sign code regulations. In addition, Uhing voiced concern that the above-proposed ordinance was such a key vote that she asked staff to attempt to contact Wenzl by conference call again, which staff did but was unsuccessful after numerous attempts.

Lowe stressed the "value of the building" is added to the tax base when businesses or industries begin expanding and/or as new machinery and equipment is added, noting such value activities generate property tax revenue. Lowe added she could not find good reason as far as safety that would have a negative impact on the community. In addition, Lowe indicated she is very much in favor of conditional use based on the premise of public input. In response to Lowe's inquiry pertaining to making modifications at a future date, such as amending conditional use to site plan review, Riordan advised Council could make code modifications at any time.

In response to Council President Johnston's inquiry pertaining to 30 day effective date versus an immediate effective date, Riordan explained the importance relies on which set of criteria would apply if applications are filed between the two-day window, i.e., outdoor grow would be permitted during the two day period based on existing criteria.

In response to Johnston's inquiry pertaining to public input between site plan review and conditional use, Riordan explained for site plan review, notices are sent to surrounding property owners for comments and for conditional use, a formal Planning Commission public hearing is held.

In response to Mayor Truax's inquiry pertaining to declaring an ordinance as an emergency, City Attorney Driscoll advised if Council determines to declare the ordinance as an emergency, the ordinance must contain an emergency clause, i.e., standard language "...is necessary for the preservation of public, health, safety and welfare".

Hearing no further discussion from the Council, Mayor Truax asked if there were any proposed amendments to Ordinance No. 2016-14, to which the following motions to amend were made.

MOTION TO AMEND NO. 1: Councilor Lowe moved, seconded by Councilor Uhing, to amend Ordinance No. 2016-14 to allow marijuana facilities in the Light Industrial (LI) Zone; Development Code Section 10.3.520, Table 3-14, Industrial Zones Use Table, by amending:

- 1. Wholesale Sales from ~~Not Permitted~~ to Conditional Use in LI.**
- 2. Medical and Recreational Marijuana Producer (Indoor) from ~~Not Permitted~~ to Conditional Use in LI.**
- 3. Wholesale activities for marijuana requires a conditional use permit in the LI and GI zone.**

VanderZanden read Amendment No. 1 to Ordinance No. 2016-14 in its entirety.

Council Discussion:

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the above motion to amend.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Thompson and Wenzl. MOTION CARRIED 5-0.

MOTION TO AMEND NO. 2: Councilor Lowe moved, seconded by Councilor Kidd, to amend Ordinance No. 2016-14, Section 4 to read: This ordinance is effective on July 25, 2016 (14 days) following its enactment by City Council.

VanderZanden read Amendment No. 2 to Ordinance No. 2016-14 in its entirety.

Council Discussion:

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote

on the above motion to amend.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Thompson and Wenzl. MOTION CARRIED 5-0.

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of June 27, 2016, and as amended.

VanderZanden read Ordinance No. 2016-14 by title for second reading as amended.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilor Thompson and Councilor Wenzl. MOTION CARRIED 5-0.

8. **SECOND READING OF ORDINANCE NO. 2016-15 OF CITY OF FOREST GROVE IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE TO THE ELECTORS OF FOREST GROVE AT THE NEXT GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016**

The first reading of Ordinance No. 2016-15 by title occurred at the Council meeting of June 27, 2016.

Staff Report:

Holan presented the above-proposed ordinance for second reading, noting staff had nothing further to report.

Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of June 27, 2016, and explained hearing procedures.

Written Testimony Received:

No written testimony was received prior to the published deadline of July 11, 7:00 p.m.

Proponents:

No one testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Hearing no discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of June 27, 2016.

VanderZanden read Ordinance No. 2016-15 by title for second reading.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Thompson and Wenzl. MOTION CARRIED 5-0.

9. **RESOLUTION NO. 2016-49 OF THE CITY OF FOREST GROVE, WASHINGTON COUNTY, OREGON, APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF FOREST GROVE THE QUESTION OF IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER WITHIN THE CITY OF FOREST GROVE AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016**

Staff Report:

Holan presented the above-proposed resolution for Council consideration, noting now that Council has adopted Ordinance No. 2016-15 (refer above) as required by state law, the City may submit to the electors the question if the City should impose a three percent tax on the sale of recreational marijuana items (which include marijuana concentrates, extracts, edibles and other products intended for human consumption and use) by a retail licensees in the City at the next general election to be held Tuesday, November 8, 2016. Holan advised if approved, the annual tax revenue is estimated to range from \$36,846 to \$40,425 per year. In conclusion of the above-noted staff report, Holan advised staff is recommending Council approve the above-proposed resolution directing the City Recorder, Elections Officer, to file the required forms with Washington County Elections to place the matter on the ballot for Tuesday, November 8, 2016, General Election, which include: Exhibit A, Form SEL805, Request for Ballot Title – Publication of Notice; Exhibit 2, Form SEL802, Notice of Measure Election; and Exhibit 3, Form JVCP-05, Washington County Voters' Pamphlet Explanatory Statement.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2016-49.

VanderZanden read Resolution No. 2016-49 by title.

MOTION: Councilor Kidd moved, seconded by Councilor Uhing, to adopt

Resolution No. 2016-49 of the City of Forest Grove, Washington County, Oregon, Approving Referral to the Electors of the City of Forest Grove the Question of Imposing a Three Percent Tax on the Sale of Marijuana Items by a Marijuana Retailer within the City of Forest Grove at the General Election to be held on Tuesday, November 8, 2016.

Council Discussion:

In response to Council President Johnston's inquiry pertaining to informing the electors how the City will use the tax revenue if approved, City Attorney Driscoll advised if approved, the tax is unrestricted in the General Fund until such time that Council takes formal action to allocate the tax revenue to specific fund(s).

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Uhing, and Mayor Truax. NOES: None. ABSENT: Councilors Thompson and Wenzl. MOTION CARRIED 5-0.

10. CITY COUNCIL COMMUNICATIONS:

Council President Johnston had nothing to report.

Kidd reported on matters of interest and upcoming meetings he was planning to attend.

Lowe reported on water-related matters of interest and upcoming meetings she was planning to attend.

Thompson was absent.

Uhing reported on matters of interest and upcoming meetings she was planning to attend.

Wenzl was absent.

11. CITY MANAGER'S REPORT:

VanderZanden reported on upcoming meetings and events as noted in the Council calendar and City Manager's Report. In addition, VanderZanden referenced the City Manager's Report, which was emailed to Council in advance and outlined various upcoming Council-related meetings; upcoming Council-related agenda; updates on department-related activities and projects, including Administrative Services, Parks and Aquatics, Police, Library, Light and Power, Economic Development, Community Development, and Engineering and Public Works; and other upcoming citywide

calendar events.

12. **MAYOR'S REPORT:**

Mayor Truax announced dates of various upcoming activities, events and meetings as noted in the Council Calendar. Mayor Truax projected a detour map route, noting Verboort Road is temporarily closed east of Highway 47 for construction of a roundabout at Verboort-Purdin Road intersection. Mayor Truax spoke in remembrance of Don Waggoner, who recently died at the age of 81, noting Waggoner was known as the father of the Bottle Recycling Bill, an instrumental key piece of Oregon legislative history. Mayor Truax added he would like to think that the same attitude Oregonians have now about deposit on bottles and cans, citizens will have in ten, fifteen or twenty years down the road about using reusable bags, noting Oregonians recycle without a second thought, and he hopes citizens do the same with plastic bags. In addition, Mayor Truax referenced a written copy of his notes and reported on various local, regional, Metro, and Washington County-related matters of interest and meetings he attended, upcoming community-related events, and upcoming meetings he was planning to attend.

League of Oregon Cities (LOC) 2017 Legislative Agenda:

Mayor Truax reported the LOC has asked each city to select its top four legislative objectives that they recommend as priorities for the League's' 2017 legislative agenda. Mayor Truax referenced the Council's tabulations, noting each Councilor was asked to identify their top five legislative objectives, which resulted in the following priorities:

- (1) **A. Needed Housing Assistance Program – 4**
- (2) **P. Mental Health Investments – 4**
- (3) **Z. Transportation Funding and Policy Package – 4**
- (4) **I. Property Tax Reform, Fairness and Equity – 3**
- (5) V. Rights of Way – 3

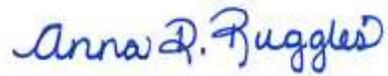
Council Discussion:

Mayor Truax opened the floor and roundtable discussion ensued as Council reviewed the above-noted tabulation results. Lowe voiced disappointment that water legislation did not make the list. In conclusion of the Council discussion, the Council collectively voiced consensus to submit the top four priorities shown in bold above.

13. **ADJOURNMENT:**

Mayor Truax adjourned the regular meeting at 8:50 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Anna D. Ruggles". The signature is written in a cursive style.

Anna D. Ruggles, CMC, City Recorder