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**City Council Special Meeting Minutes**

**Monday, April 28, 2016  
7:00 p.m., Community Auditorium**

***Minutes are unofficial until approved by Council.  
Council approved minutes as presented June 13, 2016.***

**1. CALLED TO ORDER AND ROLL CALL:**

Mayor Peter Truax called the regular City Council meeting to order at 7:02p.m. and led the Pledge of Allegiance.

**ROLL CALL: COUNCIL PRESENT:** Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Elena Uhing; Malynda Wenzl; and Mayor Peter Truax.

**STAFF PRESENT:** Jesse VanderZanden, City Manager; Paul Downey, Administrative Services Director; Jon Holan, Community Development Director; and Anna Ruggles, City Recorder.

**2. SECOND READING OF ORDINANCE NO. 2016-10 AMENDING FOREST GROVE CITY CODE BY ADDING NEW CODE SECTION 5.248 PROHIBITING THE ESTABLISHMENT OF RECREATIONAL MARIJUANA PRODUCER LOCATIONS WITHIN THE CITY OF FOREST GROVE AND DECLARING AN IMMEDIATE EFFECTIVE DATE (AUTOMATICALLY REPEAL ON AUGUST 5, 2016)**

The first reading of Ordinance No. 2016-10 read in its entirety occurred at the Council meeting of April 25, 2016.

**Staff Report:**

Holan presented the above-proposed ordinance for second reading, noting the proposed ordinance is establishing a temporary prohibition on recreational marijuana producer (grower) locations with an automatic repeal date of August 5, 2016, and declaring an immediate effective date. Holan reported the above-proposed ordinance was added to the Council Meeting Agenda on April 25, 2016, for first reading and was read in its entirety, noting the purpose of this evening's Special Council Meeting is to conduct a Public Hearing and to consider second reading of the proposed ordinance. Holan referenced the City's official zoning map showing the areas the Development Code currently allows recreational marijuana producer locations, noting the areas affected by the adoption of the proposed ordinance are Light Industrial and General Industrial zones. In conclusion of the above-noted staff report, Holan advised staff is recommending Council adopt the proposed ordinance establishing a temporary ban on recreational marijuana producer locations within light industrial and general industrial zones only, noting Council has the ability to repeal the ordinance at any time prior to

August 5, 2016, and enact regulations establishing time, place and manner of marijuana grower operations or outright ban grow operations, which requires submitting a proposal to the voters.

Public Hearing Opened:

Mayor Truax opened Public Hearing and explained hearing procedures.

Written Testimony Received:

No written testimony was received prior to April 28, 2016, 5:00 p.m.

Proponents:

David Morelli, Forest Grove, testified in support and voiced concerns pertaining to agriculture waste burn and requiring applicants to submit Covenants, Conditions and Restrictions (CCRs) and provide 24-hour surveillance for adjacent properties.

No one else testified and no written comments were received.

Opponents:

Stewart Wilson, Hillsboro, testified in opposition of the proposed ordinance, stating he is affected directly by this meeting, because he has an approved site plan review with a deadline of appeal ending tomorrow (Friday, April 29, 2016) or his application becomes final. Elliott stressed he thinks the Council's action this evening is specifically directed at his application, noting he does not think the ordinance was drafted during the meeting (April 25, 2016). Elliott voiced concern because the ordinance was added to the agenda without any public notice, noting he learned about the ordinance a couple of days ago and he was given no time to select counsel. Wilson stressed the Oregon Liquor Control Commission requires a Land Use Compatibility Statement signed by the local government (to determine whether a land use proposal is consistent with local government's comprehensive plan and land use regulations) and he has tried for weeks to have the City accept this form and staff refused its acceptance against state law. Elliott went on to say that once he got through the design review process with an approval on the current code ordinances, he thought that he was moving forward with his application. Elliott also pointed out that he has a \$12M contract to grow marijuana, stressing if anyone on the Council wanted to stop his application, Council should have come to him and let him know that he could not do this (in Forest Grove) and he would have gone somewhere else, but now it is not possible to go anywhere else. In addition, Elliott stressed he believes this action was done in a "secret session" behind closed doors, and he should have been notified about any meetings as he had been attending meetings up until this point, noting he would have attended (April 25 meeting) had he been notified.

Dr. Wayde Elliott, Warren, Oregon, testified in opposition of the proposed ordinance,

stating he has an economic impact as the lessor and has a signed lease for \$30,000 per year with Mr. Wilson and an \$18,000 investment on the facility and an application that would be final tomorrow (Friday, April 29, 2016).

No one else 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:

Council President Johnston explained the City Attorney drafted the proposed ordinance, which was present in a session open to the public on April 25, 2016, noting he objects to comments heard that discussions were held in "secret". In response to Council President Johnston's inquiry pertaining to the applicant's pending application, Holan affirmed if Council approves the proposed ordinance this evening, recreational grow would be prohibited and the pending application would be denied, noting the applicant would need to reapply after new regulations are enacted and/or after August 5, 2016, whichever comes first, and the regulations would be based on code requirements at time of approval.

Wenzl added the process has been incredibly difficult, noting she is not personally against selling or growing marijuana, but she has a responsibility to all citizens. Wenzl noted she wants time to make sure citizen advisory input is solicited and the process is done correctly for Forest Grove.

Lowe explained Council has been forging through legal laws; new voter-approved recreational marijuana regulations; and now new laws enacted for recreational growers, processors and wholesalers, noting Council is making the best decisions with as much input as Council can get, while not regulating so stiffly that it regulates the possibility right out of the community. Lowe added the reason for doing a temporary ban is to allow extra time to make sure that the new information will be useable before getting to the final operation phases, noting the ordinance is not meant to try to block or stop a particular investment, but to make sure that an application goes forward without difficulty and processes are not challenged. Lowe also voiced support for medical marijuana, noting she would never do anything that would backstab medical marijuana. In addition, Lowe apologized to the applicants for lack of notification and concluded she is considering abstaining and voting no, because there is a perceived deadline and perception of not having good processes.

Uhing explained she has spent at least two years researching and trying to understand marijuana and has attended as many meetings as she could in Salem and Washington County and she has had very little guidance on regulations that are changing and evolving daily, noting it has been frustrating. Uhing voiced support for medical marijuana, noting she stood behind medical marijuana, because she researched and pushed staff and Council to take tours of other medical marijuana facilities and gave encouragement to keep open minds. Uhing added the laws are clear when things must be done within certain timelines, noting Council must listen to the voters; understand regulations better; and know whom these regulations are going to impact. Uhing explained she has to look at the community as a whole and her decision comes down to a leadership decision, noting Council's discussions have all been held in sessions that are open to the public.

In response to various Council's concerns and inquiries pertaining to the City's processes, VanderZanden affirmed the Council work sessions were publicized in the Council agendas and posted as required. VanderZanden referenced the City's zoning map showing the areas being affected, noting the proposed ordinance is temporarily prohibiting one of seven marijuana-related activities and it is restricting recreational marijuana producer locations within light industrial and general industrial zones only. In addition, VanderZanden gave a status update on the pending application (property site located at the south end of Elm Street, known as Forest Grove Storage), noting the application received tentative approval and has a 14-day appellant period, which ends Friday, April 29, 2016, before a Notice of Final Decision can be issued by the City. VanderZanden affirmed no other applications have been submitted to the City. In addition, VanderZanden advised state law prohibits the banning of medical marijuana grow operations, pointing out the motion to prohibit outdoor grow operations in industrial zone areas, which failed 6-1 on March 28, 2016, might have affected medical marijuana grow operations as well and may have violated state law, which is most likely why the vote failed.

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of April 25, 2016.

VanderZanden read Ordinance No. 2016-10 by title for second reading.

**ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Thompson, Uhing, Wenzl, and Mayor Truax. NOES: Councilor Lowe. MOTION CARRIED 6-1.**

**3. ADJOURNMENT:**

Mayor Truax adjourned the regular meeting at 7:48 p.m.

Respectfully submitted,

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Anna D. Ruggles, CMC, City Recorder