

CITY of LA GRANDE
City Council Regular Session

September 2, 2015

6:00 p.m.

**Council Chambers
La Grande City Hall
1000 Adams Avenue**

MINUTES

COUNCILORS PRESENT:

Stephen E. Clements, *Mayor*
Gary Lillard, *Mayor Pro Tem*
John Bozarth, *Councilor*
Wayne Brown, *Councilor*
John Lackey, *Councilor*
Troy Pointer, *Councilor*
Justin Rock, *Councilor*

COUNCILORS ABSENT EXCUSED:

STAFF PRESENT

Robert Strobe, *City Manager*
Angelika Brooks, *City Recorder*
Kayla Nichols, *Assistant to the City Manager*
Michael Boquist, *City Planner*
Brian Don, *Building Official*
Brian Harvey, *Police Chief*
Kim Hulse, *Finance Director*
Christine Jarski, *Economic Development Director*
Norm Paullus, *Director of Public Works*

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/
ROLL CALL/AGENDA APPROVAL**

Mayor CLEMENTS called to order this Regular Session of the Council at 6:00 p.m. Roll Call was taken and a quorum was determined to be present.

City Manager STROPE listed the revised order of the New Business section of the Agenda. He noted that Item 7.c. would be addressed as the first agenda item under New Business.

CONSENT AGENDA

**a. Consider: Approval of Regular Session Minutes;
*August 5, 2015***

The following Motion was introduced by BOZARTH; ROCK providing the Second:

MOTION: I move that we accept the Consent Agenda as presented. MSC. (unanimous)

PUBLIC COMMENTS

Eddie GARCIA spoke in regards to his opposition to increases in taxes and franchise fees.

PUBLIC HEARINGS

None

UNFINISHED BUSINESS

a. Consider: Second Reading: *Ordinance Prohibiting Pre-sale of Marijuana Product*

STAFF REPORT

Mayor CLEMENTS requested the Staff Report.

Michael BOQUIST, *City Planner*

BOQUIST stated that on June 30, 2015, the Governor signed into law, HB 3400 which modified portions of Measure 91; and Senate Bill 460, which allows for the pre-sale of limited marijuana retail product from medical marijuana dispensaries beginning on October 1, 2015, unless the City passes an Ordinance that prohibits such pre-sale.

- **Definition:** "Limited marijuana retail product" means the seed of marijuana; the dried leaves and flowers of marijuana; and, a marijuana plant that is not flowering."

BOQUIST noted that a Work Session of the City of La Grande City Council was held on July 27, 2015, to discuss Oregon House Bill 3400 and Oregon Senate Bill 460, and it was the consensus of the City Council to proceed with the advertising and consideration of an Ordinance to prohibit the "pre-sale" of limited marijuana retail product beginning on October 1, 2015.

BOQUIST stated that on August 5, 2015, the City Council heard public testimony from parties in support and in opposition to the proposed Ordinance. The Ordinance was read for the First Time by Title Only.

BOQUIST stated that because of the time sensitive nature of this decision, the Ordinance included an emergency clause that would cause the Ordinance to become effective immediately upon its passage. Without the Emergency Clause the Ordinance, the effective date would be 30 days after adoption and therefore the City would not meet the deadline of October 1, 2015.

BOQUIST stated that included in the staff report were copies of materials presented to the City Council during the July 15, 2015, City Council meeting, July 27, 2015, Work Session and August 5, 2015, City Council meeting; a copy of which is now a permanent document in the master file for this

Regular Session and by this reference incorporated herewith as if fully set forth.

COUNCIL DISCUSSION

Council discussion was held regarding permitting versus not permitting presales of recreational marijuana prior to the OLCC creating rules and regulations for the retail portion of recreational marijuana and the tax revenue that could come from recreational marijuana.

Chief HARVEY discussed the current processes that were in place in regards to the operation and enforcement of medical marijuana dispensaries versus the processes and enforcement, which he believed, that the recreational marijuana retail component lacked.

Councilor LILLARD stated that he was supportive of Medical Marijuana but was less enthusiastic of Recreational Marijuana and believed that it would be prudent to wait for regulations, to which Councilor BROWN agreed.

PUBLIC COMMENT

Theodore DANT, spoke in regards to his support of medical marijuana and the benefits he believed come from medical marijuana.

Eddie GARCIA spoke in regards to the recreational marijuana tax revenue the state and cities would potentially receive.

Wilma REYNOLDS, owner of Eagle Cap Dispensaries, spoke in regards to the fact that she, along with 150 – 200 guests, partied like a “rock star” for 3 days on cannabis and there were no overdoses and no car wrecks caused by the use of marijuana.

Randy LINDSEY, spoke in regards to opting-in versus opting-out for recreational marijuana. He also noted the process the Oregon Health Authority (OHA) had in place in regards to his medical marijuana dispensaries.

Tony PRECLUE, spoke in regards to Alcohol versus marijuana.

Wylie PEACOCK, owner of Desires, a marijuana paraphernalia store, stated that the black market was here and people could already get marijuana; and addressed the potential loss of tax revenues if the presale of marijuana was prohibited.

Brent CLAPP spoke in regards to potential harm from marijuana.

Miranda WARREN-ZACHARIES spoke in regards to having to buy marijuana on the black market due to lack of funds to maintain a legal medical marijuana card and the ramifications that could potentially come from a legal standpoint in regards to her school financial aid.

Sherriff Boyd RASMUSSEN spoke in regards to the possible negative impacts of recreational marijuana and he urged the City Council to opt out.

MOTION

The following Motion was introduced by BOZARTH; POINTER providing the Second:

MOTION: I move that an emergency be declared to exist and that the City Council consider adopting the proposed Ordinance Prohibiting the Sale of Limited Marijuana Retail Product with an emergency declaration.

COUNCIL DISCUSSION

None

VOTE

MSC: SIX of the Councilors present voted in the Affirmative; CLEMENTS voting against.

MOTION

The following Motion was introduced by LACKEY; BROWN providing the Second:

MOTION: I move that the proposed Ordinance Prohibiting the Sale of Limited Marijuana Retail Product be read for the second time by title only, put to a vote, and adopted.

COUNCIL DISCUSSION

LILLARD inquired as to the need for a unanimous vote approving the Emergency Clause.

STROPE stated that in the course of discussing the Ordinance with the Attorney working with Staff on the matter in advance of the meeting, the Attorney pointed out that the unanimous vote requirement only applied if the adoption was done in one reading at one meeting, therefore, since the reading was done in two separate readings a unanimous vote was not required. LILLARD stated that he would appreciate that type of information prior to the meeting. STROPE stated that he apologized for not getting that information out to the Council prior to voting.

LACKEY stated that OLCC did not have any rules and regulations in place and there was no way to enforce recreational marijuana, therefore he could not support the presale of recreational marijuana.

At the Mayor's request, the City Recorder Read the Proposed Ordinance for a Second Time by Title Only as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, PROHIBITING THE SALE OF LIMITED MARIJUANA RETAIL PRODUCT FROM MEDICAL MARIJUANA DISPENSARIES AS PROVIDED IN OREGON SENATE BILL 460, 2015 ACT; AND DECLARING AN EMERGENCY [3227]

VOTE

MSC: SIX Councilors present voted in the Affirmative; CLEMENTS voting against.

NEW BUSINESS

- c. Consider: Dedication of New Basketball Courts;
*Harry Collman Memorial Courts***

STAFF REPORT

Mayor CLEMENTS requested the Staff Report.

Stu Spence, Parks and Recreation Director

SPENCE stated that upon the death of Harry Collman, the family requested that in lieu of flowers, donations be made to the City Recreation Program. As a result, the Parks and Recreation Department received \$6,000. At the November 13, 2014 Parks and Recreation Advisory Commission meeting, staff explained to the Commission that the Collman family had an interest in using the donation to construct new basketball courts that would replace the old tennis courts outside of the Parks and Recreation offices inside Pioneer Park. Consensus of the Commissioners was that *Collman Courts* would be a fitting name for the new basketball area.

SPENCE stated that since the initial meeting in November, Jay Collman of RD Mac Inc., and Harry's son, offered to donate the materials for the project, his supplier, Ash Grove Cement Company donated a large portion of cash, and Jamie Challis had was donating a substantial amount of his labor cost as well. The City also received a smaller grant from the Wildhorse Foundation completing the funding for the project.

SPENCE noted that two full size varsity basketball courts were being installed and were set to be completed late this fall including the concrete, goals, and lines. With the support of the above, this project would have no negative impact on the general fund. Led by the Collman family, SPENCE believed that this tribute was appropriate and would last the community for many years.

LACKEY stated he wanted to recognize Harry Collman and his family for all the contributions made to the community.

PUBLIC COMMENT

None

COUNCIL DISCUSSION

None

MOTION

The following Motion was introduced by BOZARTH; ROCK providing the Second:

Motion: I move that the new basketball court inside Pioneer Park be named *Collman Courts*, in memory of Harry Collman.

VOTE

MSC. (unanimous)

a. Consider: First Reading; *Ordinance Banning Medical Marijuana Producers, Processors, Wholesalers and Retailers*

STAFF REPORT

Mayor CLEMENTS requested the Staff Report.

Mike BOQUIST, *City Planner*

BOQUIST stated that under recently adopted House Bill 3400, cities that are located within counties that voted against Measure 91 by 55 percent or more could adopt an “opt-out” ordinance that prohibits the establishment and operation of one or more of the following: recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and dispensaries.

BOQUIST noted that under House Bill 3400, such ordinance must be adopted and in full effect by December 24, 2015. If the opt out ordinance was not adopted and in effect by this date, this option would expire and the City would be fully committed to permitting all marijuana facilities and would not have the option to opt out or prohibit any type of facility in the future, unless it was put before the voters during a general election. If the City Council supports and adopts the opt-out ordinance, the City Council could opt back in at any time.

BOQUIST stated that the City Council briefly discussed the opt-out option during the Work Session held on July 27, 2015, and during the Regular Session held on August 3, 2015, and directed Staff to present this Ordinance for the Council’s consideration during the September Regular Session.

BOQUIST stated that as the Council considered the opt-out option, he reminded them that there was currently a

moratorium in place that prohibits the establishment of any marijuana related facilities. When established in January 2015, the moratorium was intended to be short-term and lifted only after the City developed and adopted rules governing time, place and manner for a range of marijuana related facilities allowed under Measure 91. The moratorium was scheduled to expire on December 13, 2015, and may be extended two (2) more times (6 months each), with the final extension expiring on December 13, 2016. Unfortunately, because House Bill 3400 extended the time period by which the State must adopt permitting and process rules to December 2016, there may be insufficient time available for the City of La Grande to develop rules and ensure that they are not in conflict with State rules before the moratorium expires.

BOQUIST noted that if the City Council was interested in continuing the development and adoption of rules governing time, place and manner, the Council could consider the opt-out Ordinance in lieu of the moratorium. The benefit of this scenario was that the opt-out Ordinance would, in effect, be a moratorium but would not have strict timing deadlines for the adoption of land use rules. This scenario would allow the State to complete its rule making process, then the City could proceed with developing local rules. An additional benefit of this scenario is that it provides additional time for other cities in Oregon to adopt rules that the City of La Grande can draw on as examples.

BOQUIST stated that other options the City Council could consider included opting out as a more permanent situation or ban. This would mean the City would discontinue efforts to develop rules governing time, place and manner for a range of marijuana related facilities allowed under Measure 91. The City Council could also choose to limit the specific items which would be included in the opt-out Ordinance or not opt out at all. When considering the different options, the Council should be aware that imposing a ban would likely result in the City not being eligible to receive state marijuana tax revenues or impose a local tax, even if the city bans only certain activities and allows others. If the City opts back in, as discussed in the scenario above, the City may regain eligibility to receive state marijuana tax revenues and impose a local tax.

In response to LILLARD's question, BOQUIST stated that the ban could potentially be looked at as a moratorium.

In Response to Mayor CLEMENTS, BOQUIST stated that if the City were to opt out, the two current medical marijuana dispensaries would be grandfathered in and could continue to operate but new dispensaries would be prohibited.

In response to Mayor CLEMENTS question, BOQUIST stated that if you opt out of any or all components of recreational marijuana sales the City would not be eligible for the any potential tax revenues. He stated that it was unknown at the time of whether or not the City would be eligible for tax revenues if the Council was to vote to opt back in, in the future.

STROPE clarified that if any bans were in place for any element of recreational marijuana sales then the City would be ineligible for the tax revenues. He stated that there was uncertainty on what future tax revenues would be impacted.

LACKEY stated that he was not concerned about the potential tax revenues from the sale of recreational marijuana, but he was more concerned with the effect on the community.

BOQUIST listed the three options again for the Council.

BOZARTH asked the Council to keep in mind that the County voted 59% to not legalize marijuana and he believed that was the best public input in regards to what the majority of the community desired.

In response to POINTER's question, BOQUIST stated that the selling of the current medical marijuana facilities could potentially take place, but the business could not expand or move locations.

LILLARD voiced concerns regarding the lack of Mental Health services in the area. LACKEY agreed that those problems are there but he does not want to enhance them.

Chief HARVEY discussed the enforcement component of recreational marijuana.

PUBLIC COMMENT

Eddie GARCIA, stated that, unequivocally, once you opt out of marijuana sales you automatically opt out of the tax revenues in future, period. He noted he spoke with a Mr. Mark PETTINGER from OLCC and told the Mayor that he could contact him to discuss the issue further.

Theodore DERICK, spoke in regards to the businesses around town, and that he saw a great opportunity for the City in regards to the increase in employment and the benefit to the local economy that could potentially be made from recreational marijuana.

Wilma REYNOLDS spoke in regards to what kind of marijuana and marijuana products could be legally sold.

Wylie PEACOCK spoke in regards to La Grande having the opportunity to be “front runners” in the marijuana industry.

COUNCIL DISCUSSION

None

At the Mayor’s request, the City Recorder Read the Proposed Ordinance by Title Only as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, DECLARING A BAN ON MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS

Mayor CLEMENTS announced that the proposed Ordinance was scheduled to be read a Second Time by Title Only and considered for Adoption during the October 7, 2015 Regular Session of the Council.

b. Consider: First Reading; Ordinance Establishing Protocol for Creation of Various Advisory Commissions and Committees

STAFF REPORT

Mayor CLEMENTS requested the Staff Report.

Robert STROPE, City Manager

STROPE stated that the proposed Ordinance regarding Advisory Committees and Commissions included two significant changes. The first expands the number of Advisory Committees and Commissions on which volunteers could serve from one plus Budget to two plus Budget. The second change adds language to clarify the process initiated by City Councilors for removal of a Committee or Commission member. Previously, this authority was implied, but the revision outlines a specific process to be followed which mirrors the process allowing the City Manager, Committee or Commission to initiate a request for the removal of a Committee or Commission member.

In response to BOZARTH’s question, STROPE stated that removal of a Commissioner, Committee member, or Board member could not be done during an Executive Session of the Council due to State regulations.

A brief discussion was held in regards to the background check process for Commission, Committee and Board applicants. Chief Harvey clarified that it is actually a criminal records check, not a true background check.

PUBLIC COMMENTS

None

COUNCIL DISCUSSION

None

MOTION

The following Motion was introduced by LILLARD; BOZARTH providing the Second:

Motion: I move that the attached, proposed Ordinance amending Ordinance Number 3193, Series 2011, Establishing Protocol for Creating Advisory Committees and Commissions within the City of La Grande, Oregon, be Read for the First Time by Title Only.

COUNCIL DISCUSSION

None

At the Mayor's request, the City Recorder Read the Proposed Ordinance by Title Only as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, OREGON, ESTABLISHING PROTOCOL FOR THE CREATION OF VARIOUS AD HOC AND LONG-TERM ADVISORY COMMITTEES AND COMMISSIONS WITHIN THE CITY OF LA GRANDE, OREGON; AND REPEALING ORDINANCE NUMBER 3193, SERIES 2011, AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EFFECTIVE DATE

Mayor CLEMENTS announced that the proposed Ordinance was scheduled to be read a Second Time by Title Only during the October 7, 2015 Regular Session of the Council, and considered for Adoption.

COUNCIL DISCUSSION

None

VOTE

MSC. (Unanimous)

d. Consider: Awarding Bid; Removing of Asbestos at 1601 Seventh Street

STAFF REPORT

Mayor CLEMENTS requested the Staff Report.

Brain DON, *Building Official*

DON stated that during the July 20, 2015 Special Council Session, the Council authorized Larvik Disposal to remove a dangerous building, located at 1601 Seventh Street. As the result of a pre-demolition inspection, asbestos was

discovered, as suspected, which must be removed prior to demolition of the structure. It was important to note that asbestos removal, should it have been discovered, was intended to be a separate cost item because of the specialized nature of this part of the project. The following were bids from three (3) asbestos contractors;

1. \$22,815 – PTI Asbestos Abatement: This contractor had a crew in town and could work this project into their schedule. Contractors must submit and EPS notice, which required a 14-day waiting period. They could begin removal soon after the notice waiting period, and work could be finished in around 8 days.
2. \$25,286 – Tektronics: This contractor was also able to begin removal soon after the 14-day waiting period.
3. \$25,158 – AAI Demolition Asbestos Removal: This contractor would be available mid-October to begin the removal.

It was staff's recommendation to award additional funding based on the bid from the lowest bidder, PTI Asbestos Abatement.

Chief HARVEY stated that One Hundred and Eight (108) calls had been received by the Police Department regarding this residence in the last five years, confirming that the building had been condemned for good reason as it was truly a dangerous building.

In response to Mayor CLEMENTS' question, DON stated that there was a fourteen day waiting period before demolition could commence.

MOTION

The following Motion was introduced by BOZARTH; LACKEY providing the Second:

Motion: I move that additional funds be approved for the removal of asbestos at 1601 Seventh Street, La Grande, Oregon, and that the agreement between Larvik Disposal be revised accordingly; and further, that the City Manager be authorized to execute all required documents.

COUNCIL DISCUSSION

None

VOTE

MSC. (unanimous).

STAFF COMMENTS

Bruce WEIMER, spoke in regards to his retirement at the end of September. He appreciated the current City Council and those people who have served on the Council over the years. Mayor CLEMENTS stated that the appreciation went both ways.

CITY MANAGER COMMENTS

None

CITY COUNCIL COMMENTS

LILLARD commended the Fire Chief and added that he was sad to see him go.

Mayor CLEMENTS stated that Cycle Oregon would be in La Grande on Friday, September 18, 2015 and home base would be Pioneer Park. He also noted that he would be doing an introduction at the beginning of the event.

There being no further business to come before this Regular Session of the Council, CLEMENTS adjourned the meeting to the Urban Renewal Agency Regular Session at 7:59 p.m. The Council is scheduled to meet again in Regular Session on Wednesday, October 7, 2015, at 6:00 p.m., in the Council Chambers of City Hall, 1000 Adams Avenue, La Grande, Oregon.

Kayla M. Nichols
Assistant to the City Manager

Gary Lillard
Mayor Pro Tem

APPROVED: _____