

CITY of LA GRANDE
City Council Regular Session

October 7, 2015

6:00 p.m.

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

MINUTES

COUNCILORS PRESENT:

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

COUNCILORS ABSENT EXCUSED:

Stephen E. Clements, *Mayor*

STAFF PRESENT

Robert Strope, *City Manager*
Kayla Nichols, *Assistant to the City Manager*
Michael Boquist, *City Planner*
Emmitt Cornford, *Interim Fire Chief*
Brian Harvey, *Police Chief*

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

Mayor Pro Tem LILLARD 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 listed a Public Hearing date revision to the Resolution contained in agenda item 7.a.

CONSENT AGENDA

- a. Consider:** Approval of Regular Session Minutes;
September 2, 2015
- b. Consider:** Approval of MOU between City and IAFF Local 924; *Appointing Emmitt Cornford as Interim Fire Chief*

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

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

PUBLIC COMMENTS

None

PUBLIC HEARINGS

None

UNFINISHED BUSINESS

**a. Consider: Second Reading/Adoption; Ordinance
Banning Marijuana Facilities**

STAFF REPORT

Mayor Pro Tem LILLARD requested the Staff Report.

Michael BOQUIST, *City Planner*

BOQUIST stated that under the recently adopted House Bill 3400, cities that were located within counties that voted against Measure 91 by 55 percent or more may 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 effect by this date, this option would expire and the City would be fully committed to permitting all marijuana facilities and will not have the option to opt out or prohibit and type of facility in the future, unless it was put before the voters during a general election. If the City Council supported and adopted the opt-out ordinance, the City Council, including any future City Council, may reconsider this matter and pass an Ordinance to opt back in.

BOQUIST reminded the Council 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 is scheduled to expire on December 13, 2015, and could 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 not be sufficient 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 stated that during the September 2, 2015, Regular Session, the City Council held a public hearing, heard testimony from several citizens in support and against the opt-out option, and the proposed Ordinance was read for the first time by title only.

BOQUIST stated that subsequent to the first reading, the proposed ordinance had been changed to avoid confusion. Specifically, the word “medical” had been removed from Section 11 as Ordinance Number 3215, Series 2014, included both medical and recreational marijuana. This was a minor change and does not require the entire Section be read prior to adoption.

BOQUIST stated that as the Council considered the opt-out option, Staff had provided three (3) separate motions for consideration:

Suggested Motion 1: This motion supports the opt-out as a short term ban, which would in essence replace the existing moratorium discussed above, and directs staff to continue efforts to develop land use regulation governing time, place and manner. The timing of these efforts would be dependent in large part upon OLCC and their process to establish regulations which would influence the City’s regulations. Once the City finalized the land use regulations, the Council would be asked to adopt the new regulations and an Ordinance opting back in.

BOQUIST stated that Staff supported and recommended this Motion. 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 was that it provided additional time for other cities in Oregon to adopt rules that the City of La Grande can draw on as examples.

BOQUIST noted that when considering this option, 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, the law was unclear as to whether the City would regain eligibility to receive state marijuana tax revenues and impose a local tax.

Suggested Motion 2: This motion also supports the opt-out, but with the intent as a long-term ban. The motion directs staff to discontinue efforts to develop land use regulations. As discussed above, the City Council could reconsider this matter in the future and adopt an Ordinance to opt back in.

BOQUIST stated that like Motion #1, when considering this option 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, the law is unclear as to whether the City would regain eligibility to receive state marijuana tax revenues and impose a local tax.

Suggested Motion 3: This motion does not support the opt-out and the proposed Ordinance is rejected.

BOQUIST stated that when considering this option, the Council should be aware that the City does not have any rules governing time, place and manner for recreational marijuana producers, processors and wholesalers, as well as medical marijuana processors. Staff would, absent direction to the contrary, continue under the existing moratorium to develop regulations which would need to be adopted prior to the expiration of the moratorium and any permitted extensions otherwise, such uses would be permitted outright within the City and the City would have limited ability to address neighborhood compatibility issues and mitigate potential adverse impacts.

A brief discussion took place regarding OLCC rules, staff time, and current Medical Marijuana Facilities grandfather rights.

PUBLIC COMMENT

Joann SMITH, spoke in favor of opting out and her concerns regarding the selling of recreational marijuana.

Rick GATELY, spoke in favor of opting out and his concerns with the potential conflicts that he believed could occur with the selling of recreational marijuana.

Wylie PEACOCK, spoke against opting out and his concerns regarding the potential loss of profits from the marijuana sales tax and business profits from various portions of the marijuana business.

Rob COLLINS, spoke in favor of opting out and stated that he was not willing to put a price tag on the wellbeing of the wholesome community he enjoyed living in and some things are much more important than money.

Mark Goldbar, spoke in favor of opting out and stated that he believed that marijuana was damaging to the community with an emphasis on children.

Wylie PEACOCK spoke again, in regards to the legalization of the retail sell of recreational marijuana and the possible increase of the use of the, "Black Market," if the Council decided to opt out.

Roger BARNES, spoke again, in rebuttal to what Mr. PEACOCK stated and said that he did not know if all of Mr. PEACOCK's statements were factual but he could live with the possible consequences from not opting in.

Roger BARNES, spoke against opting out and he stated that he did not hear a convincing argument as to why the City should opt out.

Chief HARVEY, spoke in regards to the, "Black Market," and the situation that was currently happening in Colorado. He stated that the, "Black Market," was alive and thriving in Colorado due to in large part by the sales tax. He stated that people are bypassing the marijuana sales tax by purchasing the marijuana off of the "Black Market."

MOTION

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

MOTION: I move that the proposed Ordinance banning marijuana facilities be read for the second time by title only; put to a vote, and adopted; and, to direct Staff to discontinue efforts to develop land use regulations governing time, place and manner.

COUNCIL DISCUSSION

A Council discussion was held regarding the choice to discontinue efforts to develop land use regulations governing time, place and manner versus the continuation of efforts to develop land use regulations governing time, place and manner.

At the Mayor Pro Tem's request, the Proposed Ordinance was Read for a Second Time 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 [3228]

VOTE

MSC: FIVE of the Councilors present voted in the Affirmative; LILLARD voting against.

b. Consider: Second Reading/Adoption;
Ordinance Amending Ordinance 3193, Establishing Protocol for Creation of Various Advisory Commissions and Committees

STAFF REPORT

Mayor Pro Tem LILLARD requested the Staff Report.

Robert STROPE, *City Manager*

STROPE stated that the proposed Ordinance regarding Advisory Committees and Commissions was Read for the First Time by Title Only during the September 2, 2015 Regular Session of the Council. As was noted at that time, the proposed Ordinance included two significant changes. The first expanded the number of Advisory Committees and Commissions on which volunteers could serve from one plus Budget to two plus Budget. The second change added language to clarify the process initiated by the 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 that mirrors the process that the City Manager or a majority of a Committee or Commission could initiate to request the removal of a Committee or Commission member.

PUBLIC COMMENT

None

COUNCIL DISCUSSION

None

MOTION

The following Motion was introduced by BOZARTH; LACKEY 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 Second Time by Title Only, voted upon and adopted.

COUNCIL DISCUSSION

None

At the Mayor Pro Tem'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, 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 AND EFFECTIVE DATE [3229]

VOTE

MSC: (unanimous)

NEW BUSINESS

- a. Consider: Accepting Application/ Resolution;
*Right-of-Way Vacation Request, Clinkenbeard***

STAFF REPORT

Mayor Pro Tem LILLARD requested the Staff Report.

Mike BOQUIST, *City Planner*

BOQUIST stated that the request was to vacate the following portions of public rights-of-way, reducing the overall width from eighty feet (80') wide to sixty feet (60') wide:

1. The North ten feet (10') and the South ten feet (10') of the Crook Avenue right-of-way between N. Cedar Street and N. First Street; and,
2. The West ten feet (10') and the East ten feet (10') of N. First Street between "Z" Avenue and Crook Street.

BOQUIST stated that the Applicant had received signatures of consent from 93% of the affected property owners of the proposed vacation area. State Law requires signatures of consent from a minimum of two thirds (2/3) or 66.6% of the affected property owners. The request met State Law requirements. If the City Council found this request to be valid and accepted the Vacation Petition, the request would be referred to the Planning Commission for a Public Hearing and a recommendation during its November, 2015, Regular Session. This request would then be scheduled for consideration by the City Council during the December, 2015, and January, 2016, Regular Sessions.

At the request of the Council, Interim Chief CORNFORD stated that there as long as there was a turn around there should be no issues for emergency vehicles.

In response to LACKEY's question, BOQUIST stated that there would be an improvement to the current setback situation with the property.

COUNCIL DISCUSSION

None

MOTION

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

Motion: I move that the proposed Resolution Initiating Vacation Proceedings and Establishing a Public Hearing Date be Read by Title Only, Put to a Vote and Passed.

COUNCIL DISCUSSION

None

At the Mayor Pro Tem's request, the Proposed Resolution was read by Title Only, together with that portion of the Resolution Establishing the Public Hearing Date as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, ACCEPTING A PETITION FOR THE VACATION OF THE NORTH TEN FEET (10') AND THE SOUTH TEN FEET (10') OF CROOK AVENUE, LYING BETWEEN NORTH CEDAR STREET AND NORTH FIRST STREET; AND, THE WEST TEN FEET (10') AND THE EAST TEN FEET (10') OF FIRST STREET, LYING BETWEEN "Z" AVENUE AND CROOK STREET; AND ESTABLISHING A PUBLIC HEARING DATE [4708]

VOTE

MSC. (unanimous)

b. **Consider:** Resolutions: *Weed and Tall Grass Abatement Liens*

STAFF REPORT

Mayor Pro Tem LILLARD requested the Staff Report.

Emmitt CORNFORD, *Interim Fire Chief*

CORNFORD stated that throughout the summer of 2015, the Fire Department conducted weed abatement inspections at numerous properties in the City. Most property owners cut or otherwise removed tall grass and/or noxious weeds when they were notified they were in violation of the City's Nuisance Ordinance (Ordinance 3002, Series 2002). Several property owners failed to comply with the abatement order in the time allotted, so a weed abatement contractor, hired by the City, cut the weeds on their property. (The City pays the Weed Abatement Contractor and recovers the cost of the abatement by billing the property owner for those costs, plus an administrative charge of 10% of \$50.00, whichever is greater).

Ms. Lily Vu of Kondaur Capital Corporation was billed for the weed abatement services performed at the property located at 406 Balsa Street for a total of \$260.00. They have not paid the abatement costs within the thirty (30) days required by the Nuisance Ordinance and therefore, Staff was requesting the City Council pass this Resolution assessing the costs to the property via a lien. The cost for recording the lien with Union County would be added to the total cost of the lien, as would the cost of releasing the lien. The liens

shall bear interest at the current statutory interest rate of eight percent (8%) until pain in full.

Mr. and Mrs. Mackay were billed for the weed abatement services performed at the property at 1006 Third Street for a total of \$135.00. They have not paid the abatement costs within the thirty (30) days required by the Nuisance Ordinance and therefore, Staff was requesting the City Council pass the proposed Resolution assessing the costs to the property via a lien. The cost for recording the lien with Union County would be added to the total cost of the lien, as would the cost of releasing the lien. The liens shall bear interest at the current statutory interest rate of eight percent (8%) until paid in full.

PUBLIC COMMENT

None

COUNCIL DISCUSSION

None

MOTION

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

Motion: I move that the proposed Resolution establishing a lien for failure to pay the costs of abating a nuisance on property located at 406 Balsa Street be Read by Title Only, put to a Vote, and passed.

COUNCIL DISCUSSION

None

At the Mayor Pro Tem's request, the Proposed Resolution was Read by Title Only as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, ESTABLISHING A LIEN ON REAL PROPERTY FOR FAILURE TO ABATE TALL GRASS AND WEED NUISANCE [4709]

VOTE

MSC. (unanimous)

MOTION

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

Motion: I move that the proposed Resolution establishing a lien for failure to pay the costs of abating a nuisance on property located at 1006 Third Street be Read by Title Only, put to a Vote, and passed.

COUNCIL DISCUSSION

None

At the Mayor Pro Tem's request, the Proposed Resolution was Read by Title Only as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, ESTABLISHING A LIEN ON REAL PROPERTY FOR FAILURE TO ABATE TALL GRASS AND WEED NUISANCE [4710]

VOTE

MSC. (unanimous)

c. Consider: Authorizing City Manager to Negotiate/Execute Contract for Legal Services

STAFF REPORT

Mayor Pro Tem LILLARD requested the Staff Report.

Robert STROPE, *City Manager*

STROPE stated that due to the unfortunate passing of Jonel Ricker, City Attorney, the Council directed City Manager Strobe to issue a Request for Proposals (RFP) for Legal Services.

STROPE stated that an RFP was subsequently released on July 16, 2015, with a deadline date of Wednesday, August 5, 2015, for proposal submission. Two proposals were received: one from Baum Smith Attorney at Law and one from Bryant, Loveline & Jarvis, P.C.; City Manager Strobe reviewed the submissions and provided the City Council with copies of the proposals. The City Council interviewed representatives of the two firms on Wednesday, September 9, 2015 at 5:30 p.m. in the Second Floor Conference Room in City Hall. As the interviews were conducted during a work session, the City Council did not make any decisions regarding the selection.

STROPE requested the City Council determine which firm to select and to direct him to complete negotiations and finalize an agreement for the Mayor to sign on behalf of the City. To expedite the process, the City Manager would have the latitude to negotiate specific terms which may be a lower cost than was proposed by the firm selected and to address any minor points which he viewed would not require further Council action. The Council would be provided a copy of the executed agreement. The recommended term would be for three years.

PUBLIC COMMENTS

None

COUNCIL DISCUSSION

LILLARD stated that his personal feeling was that the City would do well with either firm. However, he thought that Bryant, Loveline and Jarvis, P.C., had more resources and compressive services available and as much as he would like to keep the business local, he was more incline to vote for Bryant, Loveline and Jarvis, P.C.

In response to LACKEY's question, STROPE stated that the City could use another firm if there was a conflict of interest. However, for the majority of City business, the City would use the City Attorney primarily, unless a specific skill set from another firm was required.

ROCK stated that he felt that keeping the business local was important in helping the local economy.

In response to LACKEY's questions, STROPE stated that he believed that there would be no issues with distance in relations to the response time from the Bryant, Loveline and Jarvis, P.C.

MOTION

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

Motion: I move that the City Manager Robert A. Strobe be authorized to negotiate a contract for legal services with Baum Smith Attorney at Law and authorize the Mayor to sign the document.

COUNCIL DISCUSSION

None

VOTE

MSC. (unanimous)

d. Consider: Resolution: Amending Resolution 4624, Creating City of La Grande Advisory Commissions

STAFF REPORT

Mayor Pro Tem LILLARD requested the Staff Report.

Robert STROPE, *City Manager*

STROPE stated that the City Council last updated the Resolution regarding Advisory Committees and Commissions in 2011. Since that time the City had continued to experience difficulty at times filling vacancies on some Committees and Commissions, which impacts the ability to have a quorum to conduct meetings. The proposed revisions included reducing the number required for a quorum to the majority of those appointed at the time of a meeting for seven member committees (but not less than three). It also reduces the number from seven to five for the Community Landscape and Forestry Advisory Commission at the request of the Parks and Recreation Director. The other significant changes were to the Urban Renewal Advisory Commission. The draft language adjusts the composition of the Commission to allow for more participation by non-City Residents who either own or manage properties within the Urban Renewal District. Another change was the potential for the Agency to appoint

ex officio members to the URAC from the Board of County Commissioners and/or the School District. The Resolution further clarified that the Agency would make the URAC appointment as opposed to the City Council.

A brief discussion was held by BOZARTH regarding the restructuring of membership of the Urban Renewal Agency.

MOTION

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

Motion: I move that the proposed Resolution amending Resolution Number 4624, creating Advisory Committees and Commissions within the City of La Grande, Oregon, be read by title only, put to a vote, and passed.

COUNCIL DISCUSSION

None

At the Mayor Pro Tem's request, the Proposed Resolution was Read by Title Only as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, OREGON; CREATING ADVISORY COMMISSION FOR THE CITY OF LA GRANDE ESTABLISHING MEMBERSHIP, TERMS OF OFFICE, POWERS AND DUTIES, REPEALING RESOLUTION NUMBER 4624, SERIES 2011, AND ALL OTHER RESOLUTIONS OR PORTIONS OF RESOLUTIONS IN CONFLICT HEREWITH AND DECLARING AN EFFECTIVE DATE [4711]

VOTE

MSC. (unanimous).

e. **Consider:** Appointing Citizens to City Commission; *Arts Commission*

STAFF REPORT

Gary LILLARD, Mayor Pro Tem

MOTION

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

Motion: I move that **Kelly Richards** be appointed to the Arts Commission for a term, expiring December 31, 2018.

COUNCIL DISCUSSION

None

VOTE

MSC. (unanimous)

STAFF COMMENTS

Chief HARVEY updated the Council regarding the recent mental health training the police task force had participated in and an update on academy training.

LACKEY, welcomed the new Interim Fire Chief, Emmitt Cornford.

CITY MANAGER COMMENTS

Robert STROPE, City Manager updated the Council on his attendance at the Oregon League of Cities Annual Conference and the International City Management Association (ICMA). He also updated the Council on the Fire Chief search and the Urban Renewal Loan Committee.

CITY COUNCIL COMMENTS

MOTION

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

Motion: I move that the City Manager schedule a Work Session by December 31, 2015, to Explore Changing the make-up of the Urban Renewal Agency governing body.

COUNCIL DISCUSSION

A brief discussion was held regarding the proposed restructuring of membership of the Urban Renewal Agency.

VOTE

MSC. (unanimous)

BOZARTH expressed concerns regarding tents and RV's being parked on vacant lots, to which BOQUIST gave an update on amendments he will be working on for the Land Development Code that pertains to vacant lot occupancies. Also Chief HARVEY noted the current process from the police department perspective.

LILLARD announced two Proclamations on behalf of Mayor CLEMENTS:

- October 2, 2015, National Manufacturing Day
- November 1, 2015, Extra Mile Day.

LILLARD explained his stance in regards to the marijuana issues that have been before the Council. He also noted that he would have made a yes vote regarding the marijuana issue if option number one motion had been made.

In response to LILLARD's question, STROPE gave an update on the bowling alley project.

There being no further business to come before this Regular Session of the Council, LILLARD adjourned the meeting at 7:33 p.m. The Council is scheduled to meet again in Regular Session on Wednesday, November 4, 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: _____