

CITY OF McMinnville  
MINUTES OF REGULAR MEETING  
Of the McMinnville City Council  
Held at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, August 9, 2016, at 7:00 p.m.

Presiding: Rick Olson, Mayor

Recording: Rose A. Lorenzen, Recording Secretary

Councilors:	<u>Present</u>	<u>Absent</u>
	Scott Hill	Remy Drabkin
	Larry Yoder	Kevin Jeffries
	Kellie Menke	
	Alan Ruden	

Also present were City Manager Martha Meeker, City Attorney David Koch, Police Chief Matt Scales, Planning Director Heather Richards, Finance Director Marcia Baragary, and Tom Henderson of the *News Register*.

AGENDA ITEM

1. CALL TO ORDER: Mayor Olson called the meeting to order at 7:11 p.m. and welcomed all in attendance.
2. PLEDGE OF ALLEGIANCE: Councilor Ruden led the Pledge of Allegiance.
3. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Mayor Olson invited the public to comment on items not on the agenda.

Cole Risdon reviewed the comments he made to Council on April 26. He came into the planning office on February 8 and paid an unexpected permit fee of \$2,500 to build a wall in his medical marijuana facility, NW Advantage, located on Adams Street. He was informed that there was a 1,000 foot boundary around the tennis court property and he was not issued a permit. The boundary had been brought to the Planning Department's attention by a citizen who said she was concerned about youth who used the tennis courts. The complaint was not a concerned citizen, but another dispensary applicant who was attempting to derail his business plans so she could move forward with her plans. The Oregon Health Authority was informed that the City of McMinnville was initiating a school campus boundary around the tennis court property. The Planning Commission presided over an appeal and conducted a thorough review of this issue. They concluded the tennis court property

did not qualify as a formal school campus. He shared that this lengthy and expensive situation had an impact on his family and business. He stated he had been put into an unjust situation and had scrambled to secure funding to continue this never-ending holding pattern. He had not been able to pay his bills on time and had not been able to properly provide for his family. The last time he was before the Council, Councilor Ruden had expressed a desire to find a way for Council to help him correct the damage that had been inflicted on him through this situation. Councilor Jeffries indicated this was upsetting and very bad government. Councilor Drabkin searched the high school website and discovered tennis was not offered as an athletic program at the high school. Reversing the designation had been helpful. He asked the Council to direct the Planning Director to contact the Oregon Health Authority (OHA) and let them know the designation around the tennis courts had been removed and the reasons for the removal. He also asked that the Planning Director recommend OHA follow the City's lead and delete the proposed boundary around the tennis courts so that there would be no unnecessary appeal, litigation, or hearings. His second issue was in regard to Ordinance No. 5000. He stated that this ordinance had language in it that seemed to indicate medical and recreational marijuana dispensaries could not be located within 1,000 feet of each other. He did not think the language in the ordinance accomplished what it intended to prevent, limiting these businesses in an effective way. There were some dispensaries that would be able to operate that had OLCC land use compatibility statements pending in the Planning Department now. He encouraged Council to review the language in Ordinance No. 5000 and make sure that it reflected the intent. He also recommended the City Attorney compare the language of the ordinance to other cities, such as Portland and Salem. He noted that these cities accomplished ensuring they would not be overwhelmed by dispensaries.

Mayor Olson thought since the City initiated the contact with OHA, the City should follow up with OHA and let them know about the Planning Commission decision.

Discussion was held regarding whether or not to notify OHA of the Planning Commission decision that there was not sufficient evidence to determine if the tennis courts were a school that required a 1,000 foot buffer. There was further discussion regarding making changes to Ordinance No. 5000.

City Attorney Koch said there had been discussion about a text amendment to Ordinance No. 5000 regarding buffering around preschools. The Planning Commission had some concerns regarding the term school not being well defined and determining if something was a school if it was not in a school building.

Mayor Olson thought instead of making changes to the Ordinance, have the Ordinance point to the State regulations.

City Manager Meeker recommended instead of a phone call to send an official letter to notify OHA.

Mayor Olson thought the City should call OHA first, and then follow up with an official letter.

There was consensus to direct staff to make an informal phone call to OHA and follow it up by sending an official letter explaining the Planning Commission's decision. They would also be directing the Planning Commission and staff to take a look at Ordinance No. 5000 to clarify the wording in the ordinance.

City Attorney Koch clarified that the way the ordinance was written, two recreational facilities could not be within 1,000 feet of each other and two medical marijuana facilities could not be within 1,000 feet of each other. It did not indicate that a recreational facility could not be within a 1,000 feet of a medical facility.

Mr. Risdon thought the ordinance was trying to limit the number of facilities that could be located near each other. Mayor Olson said the City would review the language and clarify this issue.

Jared Miller, McMinnville resident, was curious about the Citizens Advisory Committee and when they met. City Manager Meeker said the committee met when there was a land use issue, and there had not been an issue in a while. There would be a future discussion on how to make the committee more functional and needed.

Mr. Miller asked if he could testify on any of the Council agenda items. Mayor Olson said yes, people were allowed to comment on agenda items as long as it was pertinent information.

4. CONSENT AGENDA

- 4.a. **Resolution No. 2016-58:** Awarding a personal services contract to the law firm of Fisher & Phillips, LLP for employment law services.

Councilor Menke MOVED to approve the consent agenda. SECONDED by Councilor Ruden and PASSED unanimously.

5. PUBLIC HEARING

- 5.a. Implementation of an Exclusion Zone Ordinance

Mayor Olson opened the public hearing at 7:40 p.m.

City Manager Meeker presented the staff report. This was a follow up to the May 10 City Council Work Session regarding addressing problems in the downtown area. One idea was to bring an Exclusion Zone back to the table. In 2005, in response to concerns expressed by downtown merchants, the Council approved an Enhanced Enforcement Area and authorized police officers to exclude individuals responsible for repeated nuisance behavior from the area. While the police found it to be an effective tool, it was rescinded in 2011 after Oregon state courts questioned the legality of having such areas. The City implemented alternate enforcement methods, but they did not prove to be as effective. The City would like to establish an Exclusion Zone again under different guidelines. This time it would be a smaller area than it was before, and it would be a condition of probation. It would only be enforced after a conviction. The parameters of the zone would be from 2<sup>nd</sup> to 4<sup>th</sup> and from Adams to Galloway.

Elise Hui, Housing Authority Executive Director and owner of a property on 3<sup>rd</sup> and Irvine, said the City of Bend had an Exclusion Zone that was not a unanimous decision of the Council. One of the opponents was a business owner who thought the zone would push the problem elsewhere. She asked if McMinnville had talked to other cities who had these zones. Eugene and Portland had let their zones lapse, and there had to be a reason. Businesses could enforce trespass orders already on their own properties. She was also concerned that if people were excluded from this zone, would they go to nearby areas and the Exclusion Zone would have to continually be expanded. The City was short on police staffing and she questioned how the zone would be enforced.

Police Chief Scales explained the city prosecutor's office would decide who would be excluded based on their actions. A condition of their probation was they could not enter this zone. Staff would have a spreadsheet system with those who had been excluded that would be available in police vehicles. They would not be arrested on site. The court would be notified of the violation and they would be summoned back into court.

City Attorney Koch said it was similar to other conditions of probation. There was usually a reduced or suspended sentence for those on probation based on whether or not they got in trouble again. It was used to encourage good behavior after a conviction. Unlike the City of Bend where someone could be excluded based on arrest, this would only happen after a conviction and was a condition of probation. This was not an independent crime of trespass that occurred if it was a condition of probation and they were found in the Exclusion Zone. It would be referred to the court, and the court would decide how to treat the violation.

Ms. Hui asked why they were not excluding individuals from the place where the original crime happened. City Attorney Koch said if it was a crime of shoplifting or vandalising property, they might be excluded from that location for a period of time. He would let someone else explain why downtown might be treated differently.

Police Chief Scales clarified downtown was a historic district that attracted a lot of tourists. It was business dense with many residences. They wanted to protect downtown that had wrestled with nuisance type of behaviors for a number of years. When they had used this in the past, people understood that they did not go just outside of the area and cause trouble there.

Mayor Olson said there were areas with high density living, such as the Village Quarter and around the Circle K. He had seen a lot of issues at 7-11 and Circle K.

City Attorney Koch said the Exclusion Zone boundaries matched with the Zone 1 boundaries of the downtown Economic Improvement District (EID). Those property owners who were paying the highest rates of the EID matched with the Exclusion Zone. It was where most pedestrians and tourist attractions were located as well as residents living there.

Councilor Hill thought they might want to address the expansion down to Alpine Avenue.

Mayor Olson said they needed to be sensitive about the senior citizens at the Village Quarter. He thought they should expand the boundary to Johnson Street. This zone had a sunset in 2019 so Council could review it.

Jared Miller, McMinnville resident, thought there were other areas in the City where they could mimic this type of zone, especially in areas where people were trying to make improvements.

Mayor Olson closed the public hearing at 8:02 p.m.

Councilor Ruden thought it was a good tool. He liked the sunset clause that would prompt Council review of the zone. He also agreed it should be extended to Johnson Street.

Councilor Hill was comfortable approving the zone. He supported that it was for individuals who had been convicted. It would be a helpful tool.

Councilor Menke was in support as well and liked the idea of extending it to Johnson Street.

Councilor Yoder thought it was a great tool that needed to be used.

Mayor Olson thanked the staff for their work on this item.

Police Chief Scales agreed the sunset clause was a good way to review the zone to make sure it was effective. He thanked the City Attorney for writing the ordinance.

6. ORDINANCES

6.a. **Ordinance No. 5006**: Implementing an Exclusion Zone for the downtown area.

Mayor Olson said there was one change to the ordinance. City Attorney Koch said the change would be in Section 9.42.010, describing the boundaries of the downtown Exclusion Zone, where references to Galloway Street would be replaced with Johnson Street.

City Attorney Koch read by title only Ordinance No. 5006, implementing an Exclusion Zone for the downtown area. The title of the ordinance was read for the second time.

Ordinance No. 5006 as amended PASSED by a unanimous roll-call vote.

6.b. **Ordinance No. 5007**: An Ordinance of the City of McMinnville describing the method for calculating parking time limits, repealing Ordinance No. 4985, repealing and replacing Section 32 of Ordinance No. 3629, and declaring an emergency.

City Attorney Koch said since 1972, the City had parking time limits downtown. There was a need to crack down on people who were moving their vehicles one block in order to extend the time limit. There were areas downtown that provided all day parking. Some changes were made in 2014 that the Municipal Court judge found to be vague and unenforceable. The intent was reviewed and staff worked together to come up with language that was clearer, better defined, and still maintained the intent of the existing ordinance. It would encourage people who wanted to stay in an area beyond the time limit to use the all day parking spaces rather than surf around the two hour spots.

Mayor Olson thought it was critical to do this, especially with the requirements for ADA parking that made parking more premium in downtown.

Councilor Menke thought this would address the situation.

Councilors Yoder and Hill were in agreement.

Councilor Ruden hoped everyone would cooperate as citizens who wanted to enhance downtown. They were trying to create spots for people who did not work downtown.

There was discussion about implementing the ordinance. City Manager Meeker said staff could write warnings for the next two days and then enforcement would be through citations.

City Attorney Koch read by title only Ordinance No. 5007, an ordinance of the City of McMinnville describing the method for calculating parking time limits, repealing Ordinance No. 4985, repealing and replacing Section 32 of Ordinance No. 3629, and declaring an emergency. The title of the ordinance was read for the second time.

Ordinance No. 5007 PASSED by a unanimous roll-call vote.

6.c.

**Ordinance No. 5008:** An Ordinance amending the McMinnville Municipal code provisions regulating skateboards.

City Manager Meeker said there was an issue of skateboarders in downtown parking lots. There was already congestion in the parking lots, cars backing out, and distracted drivers, and then added to it was skateboarders coming through the lots which were hard to see and fast. There was already Chapter 10.12 in the Municipal Code that defined where skateboards were prohibited. The language would be changed to say they were prohibited on downtown sidewalks and in public parking lots.

City Attorney Koch said there was a typo where it stated the chapter as Chapter 10.28 when it should be Chapter 10.12.

City Attorney Koch read by title only Ordinance No. 5008, an ordinance amending the McMinnville Municipal code provisions regulating skateboards. The title of the ordinance was read for the second time.

Ordinance No. 5008 as amended PASSED by a unanimous roll-call vote.

6.d.

**Ordinance No. 5009:** An Ordinance adopting Public Contracting rules; repealing Ordinances 3780 and 4736; and declaring an emergency.

City Attorney Koch said in 2003 the Oregon legislature overhauled public contracting rules and at that time there was a provision that any local public contracting rules needed to be modified to be in conformance with the state's rules. If they were not, they would be subject to the attorney general's model rules. The City of McMinnville did not modify its rules at that time and had been operating under the attorney general's model rules. This ordinance repealed the rules on the books that they were no longer following and indicated the City was following the model

rules published by the attorney general. The City could declare certain types of contracts to be personal services contracts which the City could enter into and establish their own procedures for awarding those contracts. The contracts with engineers and traffic planners had to follow the attorney general's rules.

City Attorney Koch read by title only Ordinance No. 5009, an ordinance adopting public contracting rules; repealing Ordinances 3780 and 4736; and declaring an emergency. The title of the ordinance was read for the second time.

Ordinance No. 5009 PASSED by a unanimous roll-call vote.

7. RESOLUTIONS

- 7.a. **Resolution No. 2016-58:** Entering into an agreement to provide funds to assist in the provision of a public portable toilet facility.

City Manager Meeker said another issue the Council wanted to address was public urination. Providing funds to assist with a public portable toilet facility would help First Baptist Church and provide a small facility for those who needed it in downtown.

Mayor Olson said the agreement was \$100 per month for the rest of the fiscal year. City Manager Meeker said the church paid \$280 per month.

Mayor Olson wanted to provide a facility for all, including the handicapped, and thought the City should pay the additional cost.

Mary Martin, McMinnville resident, said there needed to be an adequate public restroom downtown. Mayor Olson said discussions regarding a permanent facility were continuing.

Councilor Menke agreed the City should pay the difference for a handicapped facility. Councilor Hill concurred. The City needed to be in compliance with the handicapped rules. He suggested contacting different companies to get a comparison on pricing.

Mayor Olson suggested the City absorb the complete cost for the facility. They could compare prices and pay the cost to the end of the fiscal year.

Councilor Hill MOVED to recommend the City pay the full amount for the downtown public portable toilet facility through the end of the fiscal year. SECONDED by Councilor Menke and PASSED unanimously.

8. ADVICE/INFORMATION ITEMS

- 8.a. Reports from Councilors on Committee and Board Assignments



None

8.b. Department Head Reports

None

8.c. Financing Update – 2016 Issuance of Debt

8.d. City County Dinner – Hosted by City of Dundee – August 18, 2016

10. ADJOURNMENT: Mayor Olson adjourned the meeting at 8:37 p.m.

s/s Melissa Grace  
Melissa Grace, City Recorder