

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

Tuesday, October 27, 2015 at 6:00 p.m.

Presiding: Rick Olson, Mayor

Recording: Rose A. Lorenzen, Recording Secretary

Councilors: Present
Remy Drabkin Kellie Menke
Scott Hill Alan Ruden
Kevin Jeffries Larry Yoder

Also present were City Manager Martha Meeker, Interim City Attorney Walt Gowell, Planning Director Doug Montgomery, Community Development Director Mike Bisset, Finance Director Marcia Baragary, and a member of the news media, Don Iler of the *News Register*.

DINNER

CALL TO ORDER: Mayor Olson called the Dinner Meeting to order at 6:20 p.m. and welcomed all in attendance.

PUBLIC HEARING - Regarding the Possible Ban on Some or All Six Business Categories of Commercial / Medical Marijuana: City Manager Meeker walked the Council through what was known regarding the marijuana laws and which issues are still outstanding. She noted that a decision to put the matter on the November 2016 ballot would mean that the ballot title would be sent immediately to the Oregon Health Authority (OHA) notifying them of the City's decision. If there is no prohibition, or information sent to the Oregon Liquor Control Commission (OLCC) or the OHA, then they will begin processing applications. She pointed out that any zone changes related to the matter take time to process and to move through the necessary land use steps. Extensive discussion ensued regarding the amount of time needed for the various types of land use amendments to work through from beginning to completion, following which it was determined that it would be beneficial to hold a City Council work session on November 10, 2015.

WASTEWATER FINANCIAL PLAN: Community Development Director Bisset explained that the City's consultant Deb Galardi would be present at the Regular Meeting to present the new Wastewater Financial Plan. He advised that if Council had questions following the presentation, staff could bring back pieces for additional discussion or an ordinance could be ready for the November 10, 2015 meeting.

ORDINANCE - Granting a Non-Exclusive Telecommunications Franchise to CoastCom, Inc.: City Manager Meeker advised that CoastCom had asked for additional time to finalize the franchise agreement, so this ordinance was being pulled from the agenda.

RESOLUTIONS: Mayor Olson briefly reviewed the resolutions that would be before the Council at the Regular Meeting.

ADJOURNMENT: Mayor Olson adjourned the Dinner Meeting at 6:49 p.m.

Rose A. Lorenzen, Recording Secretary

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, October 27, 2015 at 7:00 p.m.

Presiding: Rick Olson, Mayor
Recording: Rose A. Lorenzen, Recording Secretary
Councilors: Present
Remy Drabkin Kellie Menke
Scott Hill Alan Ruden
Kevin Jeffries Larry Yoder

Also present were City Manager Martha Meecker, Interim City Attorney Walt Gowell, Police Chief Matt Scales, Planning Director Doug Montgomery, Community Development Director Mike Bisset, Information Systems Manager Scott Burke, Principal Planner Ron Pomeroy, Wastewater Services Manager Dave Gehring, and members of the news media, Don Iler of the *News Register* and Dave Adams of KLYC Radio.

AGENDA ITEM

CALL TO ORDER: Mayor Olson called the meeting to order at 7:00 p.m. and welcomed all in attendance. He gave a special welcome to interim City Attorney Walt Gowell who will be serving as the City's interim City Attorney until the new City Attorney, David Koch, arrives in January 2016.

PLEDGE OF ALLEGIANCE: Councilor Hill led in the recitation of the Pledge of Allegiance.

CONSIDER MINUTES: Recording Secretary Lorenzen noted for the record that the minutes of the August 25, 2015 Dinner Meeting reflected Community Development Director Bisset's attendance. He was, in fact, not at the Dinner Meeting. Councilor Menke MOVED to adopt the minutes of the August 25, 2015 Dinner and Regular Meetings as corrected; SECONDED by Councilor Yoder. Motion PASSED unanimously.

1

PUBLIC HEARING

1 a

7:00 P.M. PUBLIC HEARING: Regarding the Possible Ban on Some or All Six Business Categories of Commercial / Medical Marijuana: Mayor Olson opened the Public Hearing at 7:03 p.m. and requested a staff report.

STAFF REPORT: City Manager Meeker briefed the Council with regard to the marijuana legislation that had occurred since July 2015. She noted that House Bill 3400 (HB 3400) allows cities to ban any or all of the six business categories associated with the marijuana industry. She noted that while this hearing will not delve into the tax issue associated with marijuana, the subject of banning does affect the City's ability to levy local taxes. Additionally, if a ban were instituted, the City would not receive funds associated with marijuana taxation from the state.

Interim City Attorney Gowell added that Section 134 of HB 3400 allows cities to choose to put to a vote of the people any one of the six categories. He further explained that to place the item on the ballot, the City Council must first adopt an ordinance and provide language to either or both the OLCC and the OHA. If the Council refers the measure to the voters, it would be on the November 2016 ballot. Any applications that were filed with the OHA or the OLCC would be stayed pending the outcome of the vote (depending on which of the six categories were banned). Additionally, in the event the measure is referred to the ballot and if that measure were to include medical marijuana dispensaries, and if the dispensary had been registered prior to the ballot and the facility had complied with city land use requirements, it would be grandfathered in.

PUBLIC TESTIMONY: Mayor Olson asked for public testimony. Thomas Helie, President of Linfield College, 900 SE Baker Street, spoke on behalf of Linfield College. He noted that the State of Oregon allows for buffers around kindergarten through Grade 12 schools and around preschools. He asked that the City extend the same buffer around Linfield College. He advised that marijuana is banned on the Linfield campus and that in addition to college-aged students, Linfield hosts a State of Oregon registered and accredited preschool, and over 4,500 younger students on campus throughout the year. He explained that Linfield's Admissions building is approximately one block from a proposed marijuana dispensary. He respectfully asked the Council to ban all six categories from not closer than 1000 feet from the campus.

Micah Cooksey, 2709 NE McDonald Lane, spoke against allowing marijuana inside the City of McMinnville. He cited studies that he had read that indicated marijuana use was linked to lower incomes, lower number of college

degrees, increased drug usage, and increased suicide. He noted that the studies indicated that postal workers are more likely to have accidents if they have used marijuana.

Councilor Drabkin thanked Mr. Cooksey for his testimony and reminded him that the legal age for use of cannabis is 21 years and that the statistics he cited for youth meant that they were obtaining the substance illegally.

Marvin Horton, 3577 NE Spring Meadow Drive, spoke about the advertising associated with the sale of marijuana. He stated he did not believe advertising for marijuana in McMinnville would be conducive to increasing the number of tourists coming to town.

Mayor Olson reminded all participants that it was necessary to keep comments to the purpose of the public hearing.

Anthony Taylor, 1510 SW Friendly Court, stated that he believed this was a great opportunity to allow the progression of the marijuana industry - an industry some have likened to a new "dot com business." The marijuana industry is a valuable source of revenue for the community if it is allowed to grow. It is important to make good rules to regulate the industry; and, it gives the general public access to contaminant-free, tested product. He also noted that many ancillary businesses would benefit from the marijuana industry - nursery businesses, accountants, contractors, and others.

Ronny Cooksey, 2709 NE McDonald Lane, encouraged the City to consider a ban on all marijuana business activities. He encouraged the City Council to think about the young people, not about tax revenue.

Adam Garvin, 2940 NE Lafayette Avenue, reminded the City Council that the people of Oregon, Yamhill County, and McMinnville have voted on this matter and it has received overwhelming support. Responding to Linfield College President Helie's testimony, Mr. Garvin noted that Linfield's preschool is well outside the 1000 foot buffer, should a dispensary move onto Highway 99W. Additionally, he believed that most of the drug use is centered in the area of Linfield's Greek community. He likened the marijuana industry to the fledgling wine industry that moved to Yamhill County in the 1980s. He suggested that there is a great deal of misinformation regarding marijuana and that the City Council should make sure they know the truth about it.

P. J. Morrissey, 8515 SE Three Trees Lane, Amity, stated that he had written a letter to the editor stating that marijuana destroys lives and families. He stated that marijuana users become addicts and that marijuana is classified by the federal government as a Schedule 1 substance. It is a drug with no medical use, is dangerous, and should be extremely limited.

Wayne Stocks, 435 NE Johnson, stated that a recent report from the Center for Disease Control (CDC) stated that 45.3 percent of all 12th graders used cannabis at least one time in 2012. Even though it is illegal, the youth continue to find ways through the black market to purchase the product. He stated that he believed adults should be given the right to participate in a legal substance and for adults there is no reason to ban marijuana in any form. Referring to President Helie's testimony, Mr. Stocks stated that there are stop gaps already in place by the City, the County, and the State. He pointed out that the draft rules relating to the marijuana industry are daunting and it will be a major undertaking to open a store front. In closing, Mr. Stocks asked the Council to embrace the new cottage industry, just as the craft beer and wines businesses and other small business such as Betty Lou's, have been embraced.

Steve Rupp, 14921 Hidden Hills, stated that although he had not intended to speak, he felt he needed to say that he was in favor of all six models of cannabis in McMinnville; however, he felt Dr. Helie's presentation was very well put and he supports Linfield's request.

Mayor Olson closed the public hearing at 7:54 p.m. and asked for Council discussion.

Councilor Hill stated that the Council had discussed a workshop to discuss and gather more information on time, place, and manner of the use of marijuana. He stated that he was in favor of putting a workshop on the agenda to discuss these matters at the November 10, 2015 City Council meeting.

Councilor Drabkin stated that the Council represents the voters of McMinnville and the voters have spoken in favor of marijuana. She understands that each might have personal moral and value judgments related to marijuana; however, the fact is that voters have approved its use within the city limits of McMinnville. Additionally, she believed that the City will be receiving tax revenues due to the sales of marijuana.

Councilor Ruden agreed with Councilors Drabkin and Hill and stated that free enterprise should prevail. He also agreed with Councilor Hill that more discussion, especially surrounding the topic of zoning to determine whether there should be a "twist" on the part of the Council. He noted, however, that at this point, he favored no ban.

Councilor Yoder stated that he realized that this complicated topic included many variables and felt that they needed more time and more information before making a decision. He pointed out that not just the rules, but the interpretation of the rules seems to be never-ending and ever-changing. He noted, though, that in general, he supports no ban.

Councilor Jeffries stated his opposition to all forms of marijuana - both medical and recreational use. He advised that he understood that the majority of voters said that they wanted legalized marijuana; however, he is representing those who said "no."

Mayor Olson advised that he understood Councilor Jeffries' frustration and agreed that the Oregon Health Authority (OHA) is not prepared to handle this matter. Measure 91 was passed by the people - it was a mandate. He stated that personally, he is not for banning any of the six uses, although he believed the most important topic is time, place, and manner.

Mayor Olson asked for a straw vote regarding a total ban. Only Councilor Jeffries supported a total ban on marijuana.

Following a brief discussion, Councilor Hill MOVED to place a work session on the Council's agenda for November 10, 2015 with a vote on the matter to be scheduled for the January 12, 2016 meeting. Councilor Ruden SECONDED the motion. Motion PASSED unanimously.

2

OLD BUSINESS

2 a

WASTEWATER FINANCIAL PLAN REVIEW: Community Development Director Bisset referred to the memorandum in the Council packet and stated that the Wastewater Financial Plan is built on decades of carefully plotted rate decisions. In 2011, the City Council adopted a revised Wastewater Financial Plan that directed a "pay as you go" approach to funding the ongoing wastewater system operations and maintenance costs; as well as the approximately \$63 million of wastewater capital improvements needed through 2023. This plan is reviewed biannually - last in 2013. He explained that consultant Deb Galardi of Galardi Rothstein Group reviewed and updated the Wastewater Financial plan. This effort included a review of the existing rate structure to ensure that revenues would cover expected operations, maintenance, and capital needs. The work also included a review of the equity of rates amongst the various system users. Additionally, the review included a detailed evaluation of alternative rate structures for the City's commercial and industrial customers.

Consultant Galardi overviewed the 2015 Sewer Rate Equity Review Report. She explained how the information in the report was gathered and depicted. She pointed out that the report graphically shows the 2015 financial plan and the projected capital costs and the reserves. As projected in 2013, the financials show an approximate \$7 million in reserve. She praised the policy to review the plan every two years and to make small adjustments over time. Today's picture is pretty much the same as it was two years ago in the 2013 Plan.

Ms. Galardi spoke about the services provided by the wastewater system and the impacts of the cost of treatment. She noted that given the City's climate, the wet weather flows present an interesting issue when determining how costs should be split among customers. She explained that it is fair to consider the number of customers, sanitary flow, land area, and/or some combination of these items. She advised that most communities use a combination. Additionally, inflow and infiltration (I & I), the number of customers, pipes and connection systems, dwelling units (single-family and multi-family) all play into how the rates are developed. Larger multi-family dwelling units occupy larger areas of land and the flow coming from the area must be directed into larger diameter pipes. The bigger the pipe, the more possible it is to crack and allow I & I. In the 2011 report, the allocation was made on an 80 percent (customers)/20% (flow) basis. That allocation has remained constant. She explained that the City needs to go to a classification system that allows the City to place the customer into the appropriate classification. There are a number of higher strength categories - from medium to super high strength wastewater to the system that costs more to treat. Therefore, there is a need to identify the range of wastewater concentrations so that users can be placed into the proper classes.

Following Ms. Galardi's report, there was a brief Council discussion and a clarifying question and answer period. Mr. Bisset summarized the next steps and advised that this sort of proposed classification system will be limited to monitored industrial customers (currently five) but then could further de-aggregate and continue to move the City closer to an equitable level and to equally distribute costs through all customers. The update would apply to the City's monitored industrial customers and then between now and the next update, staff will meet with the commercial customers to look at dis-aggregating the structure.

In summary, Ms. Galardi stated they have compared the current and revisited equity rates. The rates are revenue neutral for both fixed and volume charges. She explained that since it is equity that they are looking at, when all is factored in, there will be some decreases in revenue from industrial and increases from other classifications. The increases would be between three and four percent with an average monthly bill between \$51 and \$52. This method would require a modification to the City's existing ordinance and would also require adoption of a rate resolution on November 10, 2015. Implementation date is scheduled for January 1, 2016. She added that they are potentially looking to expand to other commercial customers and hopefully this will occur in 2017.

Ms. Galardi opens the question and answer period.

In responding to Councilor Drabkin's inquiry, Ms. Galardi agreed that this method does impact residential customers

more. Councilor Drabkin stated that her concern was that the Council had an overarching theme of affordable housing that was not taken into consideration when this rate structure was formulated. Low income individuals are disproportionately affected by this rate structure. Monthly bills are a key element of affordable housing.

Councilor Menke stated that she understood Councilor Drabkin's point of view but also understood that the City has customers being charged extremely high rates - enough to take them out of business. This is something to consider as potential employers look to relocate in McMinnville.

Councilor Jeffries stated that he was pleased that the City is becoming more sophisticated and this is a place where there will finally be equity. Although there will be challenges in gathering the data, he was pleased that the City is moving in that direction.

Mayor Olson asked about the success of the City's I & I program. Mr. Bisset stated that although much I & I has been removed from the system, I & I will continue to need to be treated in the wastewater system. The primary driver of the expansion at the waste water plant is to handle the wet weather flow. The wastewater staff will continue to do flow monitoring so there will be data to review in the future.

Further discussion about the equity of the plan continued. Ms. Galardi pointed out that there is a fairly high cost associated with each unit of water used, so if you use less water, the bill will be less. Wastewater, by and large, is based on the discharge amounts. Low-flow fixtures assist in lowering monthly bills significantly.

Mayor Olson pointed out that if a model is put together, it must be built to minimize the City's residential rates. He agreed with Councilor Drabkin's comments.

Councilor Drabkin pointed out that some Councilors are saying that we are currently subsidizing low income families; however, the draft Plan is asking the citizens to subsidize industrial users. She stated that she did not contest the reclassification system.

Ms. Galardi noted that the reduction of fees for the industrial class comes out of the equity review in the cost structure. And the rates have come out of the updated numbers, not a policy that says "bring down costs for the industrial user."

Mayor Olson asked for comments from the audience.

Mark Davis, 652 SE Washington, thanked the Council for the interesting discussion. He thanked Ms. Galardi and Mr. Bisset for providing the information. He advised that he

had spent some time looking through the spreadsheet. He stated that he had no problem with the model or the commercial/industrial allocation. He is also very much in support of the pay as you go model. He stated that equity brings up a sense of fairness - that all are treated equally. He noted that there are many assumptions in the Plan and he was not sure the assumptions presented were either equitable or fair. He summarized his thoughts by stating that he was in favor of keeping the customer service charge but to lower it and implement a higher usage charge. That method is very justifiable and encourages conservation and balances the numbers. Although there will be an increase in the volume rate, he emphasize that the same number will be reached.

Councilors Ruden, Drabkin, and Hill thanked Mr. Davis for his understandable testimony.

Mayor Olson asked Mr. Bisset about his thoughts on the 80/20 and 70/30 rate structure. Mr. Bisset stated that the higher number of connections in the residential acre is higher than the industrial/commercial acre. There is a large difference in the amount of piping needed for the residential vs. industrial/commercial uses. He advised that he understood the idea but there is a difference in the density of the piping.

Mayor Olson advised that if the Council decided to alter the numbers, those could be addressed in the ordinance. He advised that he believed the Council is on board with the rate methodology and suggested that staff bring the ordinance and the rate resolution to the next meeting - on November 10th.

Mr. Bisset agreed and stated that related to the affordable housing issue, as staff and Council move forward and talk about SDCs, they could also talk about low income SDC rates.

City Manager Meeker urged for a holistic view as it relates to affordable housing.

Councilor Drabkin stated that she understood the approach of setting aside affordable housing to incorporate later, but she saw an opportunity to incorporate it now through an approach for adjusting sewer rates. Ultimately, the Council will look at affordable housing separately, but she believed they also needed to incorporate it at every level rather than looking at it individually.

Mayor Olson suggested that this be a topic for the 2016 Goals and Objectives session. This year the Council has learned about affordable housing. He strongly suggested that a short term goal be to take the information and set it into place to make it happen.

3 a GRANTING A NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE TO COASTCOM, INC.: City Manager Meeker advised that this ordinance has been tabled and will be addressed at a future time.

4 RESOLUTIONS

4 a AWARDING THE CONTRACT FOR THE DESIGN OF THE FORD STREET SIDEWALK IMPROVEMENTS AND PEDESTRIAN SAFETY IMPROVEMENTS TRANSPORTATION BOND MEASURE PROJECTS: Councilor Menke MOVED to adopt Resolution No. 2015-49 awarding the contract for the design of the Ford Street Sidewalk Improvements and Pedestrian Safety Improvements transportation bond measure projects; SECONDED by Councilor Hill. Motion PASSED unanimously.

4 b APPROVING ENTERING INTO A CONTRACT WITH MERINA & COMPANY LLP: Finance Director Baragary stated that after working with the City's long-term auditor, Talbot, Korvola and Warwick, staff decided it was time to execute a Request for Proposals (RFP) for auditor. This is part of governmental accounting's standard and best practices. She noted that Councilors Hill and Menke and Water and Light's Finance Director Mark Carlton met with the two proposers. The decision was made to rotate the auditors from TKW to Merina. Councilor Menke added that the group was very impressed with Merina - they were exemplary and will provide an excellent service. She agreed that it was time to change auditors. Councilor Hill pointed out that Merina seemed to be more on top of some of the issues that will be changing. From a cost standpoint, the City will have a more favorable pricing structure also. He agreed that it was prudent to have a new set of eyes.

Councilor Jeffries MOVED to adopt Resolution No. 2015-50 entering into a contract with Merina & Company LLP; SECONDED by Councilor Menke. Motion PASSED unanimously.

5 ADVICE / INFORMATION ITEMS

5 a and b COUNCIL AND DEPARTMENT REPORTS: Because of the lateness of the hour, the Council and Department Head Reports were omitted.

6 ADJOURNMENT: Mayor Olson adjourned the meeting at 9:34 p.m.

Rose A. Lorenzen, Recording Secretary