

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

Tuesday, December 22, 2015 at 6:00 p.m.

Presiding: Rick Olson, Mayor

Recording: Rose A. Lorenzen, Recording Secretary

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

Planning Commission:	<u>Present</u>	<u>Excused Absence</u>
	Martin Chroust-	Jack Morgan
	Masin	Amanda Pietz
	Roger Hall	Wendy Stassens,
	Charles Hillestad	Chair
		Frank Butler
		Erica Thomas
		John Tiedge

Also present were City Manager Martha Meeker, Interim City Attorney Walt Gowell, Planning Director Doug Montgomery, 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 6:28 p.m. and welcomed the Planning Commission and others in attendance.

PUBLIC HEARING - REGARDING STANDARDS FOR REGULATING MARIJUANA BUSINESS ACTIVITIES IN MCMINNVILLE: Interim City Attorney Gowell, Mayor Olson, and Planning Commission Chair Stassens reviewed the procedures and protocols for the public hearing to be held during Joint City council and Planning Commission Meeting.

Discussion regarding the ability to buffer a particular area was discussed. Interim City Attorney Gowell discussed the "grandfather" clause in the law and advised that this clause refers to businesses that were established prior to the new criteria. He explained that the Legislature adopted a ruling of 120 days for the agency to make a decision after receiving a submission. The "goal post rule" is such that if an application is made to undertake a certain use, and is following the criteria that is in effect at the time and if all material is submitted within 180 days, the courts could rule that the business was "established" even though it might not be open for business. He further explained that if the City were to look at the facts and disagree with the "goal post rule," the applicant could use the "vested rights doctrine" to essentially appeal the City's decision to the Circuit Court.

City Manager Meeker noted that one of the main questions before the Planning Commission and City Council would be whether to establish a buffer around Linfield College. This request was made by Linfield at the Council's October 27, 2015 public Hearing.

Mayor Olson explained that the draft ordinance is currently written with the Linfield-requested buffer included. If the Planning Commission and City Council decided to remove the buffer, the draft ordinance would need to be amended. If the vote on the ordinance was not unanimous, a Special Meeting of the Council will be scheduled prior to the beginning of 2016.

ADJOURNMENT: Mayor Olson adjourned the Dinner Meeting at 6:46 p.m.

Rose A. Lorenzen, Recording Secretary

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

Tuesday, December 22, 2015 at 7:00 p.m.

Presiding: Rick Olson, Mayor

Recording: Rose A. Lorenzen, Recording Secretary

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

Planning Commission:	<u>Present</u>	<u>Excused Absence</u>
	Martin Chroust-	Jack Morgan
	Masin	Amanda Pietz
	Roger Hall	Wendy Stassens,
	Charles Hillestad	Chair
		Frank Butler
		Erica Thomas
		John Tiedge

Also present were City Manager Martha Meeker, Interim City Attorney Walt Gowell, Planning Director Doug Montgomery, Police Chief Matt Scales, and a member 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 noted for the record that Councilors Hill and Yoder and Planning Commissioners Butler, Thomas, and Tiedge had been excused from the evening's meeting.

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

INVITATION TO CITIZENS FOR PUBLIC COMMENT: Mayor Olson asked for comments from citizens on topics not on the evening's agenda.

Wayne Stocks, 435 NE Johnson, spoke about the rampant use of and signage surrounding alcohol. He noted that when one drives down the main arterials of the City, one sees many flashing and neon signs advertising alcohol. He advised that 1,700 college students die each year from alcohol-related accidents and that alcohol consumption is the leading cause of death for people between the ages of 15 and 24 years. He noted further that there have been 423 alcohol involved crimes committed in the City this year. He urged the City Council to look at the statistics surrounding the use of alcohol and determine if there is something that can be done to lower the risk of alcohol-related crimes and deaths.

Mark Riche, 1427 NW 5th Street, spoke about the need to end the sale of fortified alcohol in downtown McMinnville. He advised that fortified alcohol (above 12 percent) is being sold to the poor and homeless in this City. He would like to see the City Council help clean up the downtown area of the sale of fortified alcohol. He noted that he had spoken with approximately 60 percent of the business owners in the downtown area who agreed with him on this matter. He urged the Council to get the fortified alcohol off the street and out of the transit center.

2 REAPPOINTMENT OF WATER AND LIGHT COMMISSIONER: Mayor Olson noted that this topic was being placed before the scheduled Public Hearing. He advised that Water and Light Commissioner Mike Keyes' appointment to the Water and Light Commission was expiring on December 31, 2015. He said that he had spoken with Mr. Keyes who agreed to serve another term on the Commission. Mayor Olson recommended reappointment of Mr. Keyes to the Water and Light Commission. The Council by consensus approved the reappointment of Mr. Keyes to the Water and Light Commission.

1 PUBLIC HEARING

1 a 7:00 P.M. PUBLIC HEARING: REGARDING STANDARDS FOR REGULATING MARIJUANA BUSINESS ACTIVITIES IN McMINNVILLE: Planning Commission Chair Stassens called the Planning Commission to order at 7:10 p.m.

Mayor Olson opened the public hearing at 7:10 p.m., and asked for a staff report.

Planning Director Montgomery reviewed the draft ordinance located in the Council and Planning Commission's packets. He advised that it was staff's belief that the draft mirrors the direction given by the Council at its November 10, 2015 Work Session. He reviewed the three main elements

of the draft ordinance - definitions, home occupation permits, and the proposed new chapter on marijuana related activities. He explained that the definitions used in the ordinance were taken directly from House Bill 3400. He reported that staff recommends that home occupation permits related to marijuana business in residential zones not be allowed.

Mr. Montgomery added testimony received from Steve and Mary Allen, Green Heart Oregon, petitions from proposed buffer area business owners and Green Heart Oregon, and the draft ordinance into the record. He advised that all of these materials had also been sent to the Department of Land Conservation and Development. He also noted for the record that staff had been engaged in three conversations with members of the public about the proposed buffer around Linfield College and the non-conforming use section (Chapter 17.64.050) of the proposed ordinance.

PUBLIC TESTIMONY: Mayor Olson asked for public testimony.

Wayne Stocks, 435 NE Johnson Street, spoke to the Planning Commission and the Council about the proposed buffer around Linfield College. He stated his belief that the buffer was unreasonable. He pointed out that if the buffer were deemed reasonable, it would also apply to Chemeketa Community College where there are more underage (under 18) individuals attending Chemeketa than Linfield. He also pointed out there are many area businesses that underage individuals frequent which might be within 1000 feet of a marijuana dispensary.

Mr. Stocks spoke about the 58 percent of the City's population who voted in support of the legalization of marijuana. He stated that although he understood the time, place, and manner restrictions, he felt that those restrictions must also be reasonable.

Mr. Stocks stated that he believed most individuals believe that the main entrance to Linfield College was the Oak Grove entrance, not at the intersection of Baker Street and Linfield Avenue. He pointed out that both of the streets (Linfield Avenue and Baker Street) were public streets, paid for by City of McMinnville tax payers.

John McKeegan, 815 NW Yamhill Street, stated that as Vice President and General Counsel for Linfield College, he was appearing on behalf of the College and was representing President Thomas Hellie who was unable to attend. He introduced other Linfield faculty who were in the audience. He read a letter from Dr. Hellie addressed to the Mayor, City Council, and Planning Commission and asked that the letter be included in the meeting's official record. Mr. McKeegan also presented a document detailing the categories of minors who attend events at Linfield College. He presented a petition signed by many who requested that the City Council protect children by imposing the 1000 foot

buffer around Linfield College. He asked that all be included in the official record of the meeting.

Responding to inquiries from Planning Commissioner Chroust-Masin and Councilor Drabkin, Mr. McKeegan stated that he was aware that Linfield students use medical and/or recreational marijuana. If the student is caught using recreational drugs or alcohol, the student is sanctioned and disciplined. The College tries to protect minors and children. He advised that Linfield does not believe identification checks (for age) are sufficient. Mr. McKeegan explained that as referenced in Dr. Hellie's letter, the Controlled Substance Act incorporates a 1000 foot penalty zone for any illegal activities. With the Drug Free School Act, Linfield is subject to losing federal funding if the College does not actively prohibit illegal uses by its students. Mr. McKeegan stated that the issue before us at this time is related to time, place, and manner of marijuana. Linfield feels that just as the Community Center receives protection, Linfield College should also receive a protective buffer. He advised when the outside students are at Linfield, they are supervised when they are involved in their programs; however, if they are staying in Linfield residence halls, they are not under immediate supervision outside the planned program times.

Tony Browne, 979 SW Goucher, stated that he loved Linfield College and had been a sports ticket holder for 36 years. He suggested, however, that the campus is not drug free and that the minors who might be on Linfield's campus have been exposed to drugs and alcohol. He also pointed out that Linfield's Partners-in-Progress Committee have for years asked local businesses to help grow Linfield; now Linfield is asking businesses to not locate near the campus. Additionally, he reminded the City Council and Planning Commission that his vote should count.

Jennifer Standards, 1208 SE Baker Street, advised that she was a business partner of Wayne Stocks. When the location for her business was selected, they believed that the City allowed a marijuana business to be in this location. She asked why, if the location was so important to the College, this matter was not brought up earlier in the process. She stated that she had researched the area around the Oregon State University campus and found medical facilities within 1000 feet of the campus. She did not find another location in McMinnville that fit their business model - this location had kitchens, a distinctive community center, and ample parking.

Mark Riche, 1427 NW 5th Street, thanked Mr. Stocks for being a caretaker and grower. He offered that he is a disabled Veteran who chooses his own medication. He pointed out that if Linfield is concerned about minors, the school would be concerned with alcohol. He advised that he had made the decision to keep his body safer by not using codeine.

Peyton Curry, 1208 SW Baker, stated that he had sold his business in Arizona and invested in Green Heart Oregon. He listed the many benefits of medical marijuana, including the use of the medication to help control seizures in children. He added that he was excited about the business's location because it was adjacent to the Linfield campus. He advised that the fledgling industry needed scientists, nurses, and others who attend Linfield to assist them in research and in other business areas. He stated that Green Heart Oregon was a beautiful facility, in part because of its closeness to Linfield's campus.

Chris Browne, 979 SW Goucher, advised that she did not vote for legalized marijuana; however, she strongly believed in the right of businesses. If the City Council imposes a 1000 foot buffer around Linfield, then nine other businesses that sell controlled substances need to be removed. She pointed out that within the McMinnville School District, the Adams Street campus is within 500 feet of the liquor store. The minors are not allowed into that store. She pointed out that there is legislation in place for controlled substances.

Adam Garvin, 2940 NE Lafayette Avenue, agreed that 10,000 minors come onto Linfield's campus - in fact, when he was a minor, he was one of them. He advised that during the summer, anytime you see minors on campus or going off campus, they are not unsupervised. He felt it was hypocritical in nature that a buffer zone should be placed around Linfield College. He reminded the Council of the large marijuana "bust" that included a Linfield Delta Fraternity member. He spoke about the difficulties involved in finding a property that was suitable for a marijuana dispensary. He noted that if a 1000 foot buffer was placed around the College, it could also put restrictions on one of the biggest employers in town who puts marijuana in their health food bars.

Susan Agre-Kippenhan, 930 NE Samson Street, advised that the College did not come forward earlier because they did not contemplate the idea of a marijuana business locating near Linfield. She added that no coercion occurred when the "Protect Minors at Linfield!" petitions were being circulated. Deans were specifically asked to not take the petitions into the classrooms.

Dave Mihm, 648 NW 9th Street, spoke about the health of individuals who abuse a drug that might be very beneficial in the right hands. But, just as alcohol is abused, marijuana can also be abused. His concern were that Linfield could lose federal funding; about the costs involved with law enforcement, responding medical officials; and the health effects of people who have used the product.

Skip Huwaldt, 2125 NW Michelbook Lane, stated that he enjoyed seeing democracy in action. He was an interested citizen with a few comments from 10,000 feet in the air. He stated that although he had a great deal of sympathy for those who have made investments in their business, he believed that this argument was about the benefits associated for one group of business people. He agreed that marijuana can be beneficial; however, he doubted that this location (within 1000 feet of Linfield College) was the only feasible location for the business.

Former City Councilor and retired Linfield Professor Dave Hansen, 2130 NW Michelbook Lane, remembered very clearly those decisions that were most difficult came from issues with competing sides. He pointed out that this was an interesting dilemma - supporting a business, yet protecting safety of youth and underage citizens. He referred to the City's Community Choices program and those on that Committee had a sense about what it meant to retain McMinnville's small town atmosphere. He noted that there was a question he always asked himself when he needed to make a decision regarding the community: "What will best safeguard those assets and that small town atmosphere so valued by our community?"

Steve Allen, 835 SW Hillary Street, testified that he loved this community in which he has lived his life. He advised that he and his wife believe in zoning ordinances and they had researched those ordinances prior to leasing their building to Green Heart Oregon. He said that they believed the current regulations are adequate and conservative. He stated that the medical marijuana facility would be similar in nature to a pharmacy and they could find no restrictions on the location of pharmacies. He told a story about the wine industry and the discrimination that industry felt when it first came to McMinnville.

Harold Washington, 19191 SW Peavine Road, spoke about the pros and cons of the marijuana industry and his love for Linfield College. He advised that he voted for the legalization of marijuana, even though he has never used the drug. He stated that he understood the medical attributes of marijuana. He stated he also realizes that Linfield wants to protect its stellar reputation and in his opinion, Linfield's reputation stands alone. Linfield fosters a high education for young adults. Yet no other college has requested a 1000 foot buffer. Universities are urging studies for data for the future use of marijuana against the effects of autism, cancer, Lou Gehrig's disease, and other diseases. He noted that it bothered him that Linfield should be so close-minded to progress and new educational opportunities. He also noted that he had not heard that Linfield had requested a buffer around its Portland campus. He asked why a business that does not pay taxes should be able to fast track over other businesses.

Wayne Stocks, 435 NE Johnson Street, stated that there has never been one documented death from an overdose of marijuana. He stated that he was thinking about all of the youth at Linfield College and found that those young people frequent everywhere in McMinnville, so, to protect the youth, a buffer would need to surround the entire city. He concluded by saying when you teach your children, you do so by example. He asked Linfield to teach by example.

Nan Bacon, 1175 NE 17th Street, stated that she has lived in McMinnville for 56 years and she remembered having a conversation with an "old-timer" who told her that when he went to Linfield, they were not allowed to drive cars because Linfield felt cars were too dangerous. She asked the City Council to please consider history when deliberating.

CLOSE PUBLIC TESTIMONY: Mayor Olson closed the public testimony and passed the gavel to Planning Commission Chair Stassens. Ms. Stassens closed the Public Hearing at 8:40 p.m. and asked for Planning Commission deliberation.

Planning Commissioner Pietz stated that there were a couple of important things to consider in making their decision. One of the considerations is to look at parallels and consistency. A property owner (Linfield College) has requested a 1000 foot buffer around the perimeter of its campus. She asked herself what other areas serve youth and Chemeketa Community College came to mind. She stated that she had frequented that campus as an underage individual. She felt that was an important parallel. The second point is that it is important to look at the primary function of the business. In this case it is to serve college age students. Although the college may also serve those underage, the primary use is for college aged students. That is a very different use from community centers and aquatic centers. She stated that she understood and respected Linfield's point of view; however, the points listed above should be taken into consideration.

Commissioner Chroust-Masin reminded everyone that they would not be discussing this topic if the public had not voted in favor of legalization of marijuana. Medical marijuana is a controlled substance with certain pitfalls while also helping people with many different medical problems. He stated he felt that there is already too much legislation affecting businesses and more business boundaries should not be created. He felt that Linfield students were old enough to not have Linfield the institution creating artificial boundaries. The 1000 foot buffer would be pointless.

Commissioner Morgan reflected that while they had gathered to hear testimony on an entire ordinance, the entire public hearing had been taken up with the buffer zone discussion. He stated that he agreed with Commissioner Pietz - if the Planning Commission supports a buffer zone around Linfield

College, then the same buffer should also apply to Chemeketa Community College.

Commissioner Hillestad stated that while he supported buffers in some situations, he did not support the 1000 foot buffer around Linfield College, especially when Linfield only supports the buffer for marijuana, not alcohol, and alcohol events actually occur on campus. The marijuana industry needs to be closely regulated and monitored, not prevented.

Commissioner Hall agreed with Commissioner Hillestad. While he understood Linfield's concerns, he agreed with Commission Pietz. He noted that sometimes there is a tendency to overdo our well meaning. College students are supposed to be learning and if they are coddled too much, they will not learn life's lessons. He stated he was not in favor of the buffer.

Planning Commission Chair Stassens agreed with Commissioner Morgan's statement that the discussion had been all about the buffer around Linfield. She stated she was listening for consistency when applying buffers and she pointed out that if buffers were extended to all areas where children congregate, the buffers would never end. While she believed that Linfield is a wonderful asset to the community, she is not convinced that it is primarily used is by children.

Based on the staff report and testimony received, Commissioner Morgan MOVED to recommend the City Council APPROVE Ordinance No. 5000, as amended (deletion of Chapter 17.64.040 (A)(6)(d)) SECONDED by Commissioner Pietz. The motion PASSED unanimously.

Planning Commission Chair Stassens ADJOURNED the Planning Commission at 8:51 p.m.

RECESS / RECONVENE: Mayor Olson called for a brief recess at 8:53 p.m. He asked that no one from the audience address this topic with any of the City Council members until the Council has had the opportunity to vote on the matter. Mayor Olson reconvened the meeting at 9:06 p.m.

Mayor Olson addressed the options that the City Council had as regard the draft ordinance. He pointed out that the Council could adopt the ordinance as recommended by the Planning Commission; they could adopt the ordinance with no or additional amendments; or the Council could direct staff to revise the ordinance and bring it back before the City Council for deliberation. He noted that if the vote on the proposed ordinance is not unanimous, the Council would hold a special meeting on either December 23, 2015 or December 29, 2015 to hear and vote on the second reading of the ordinance. He asked for discussion.

Councilor Menke stated she was impressed with the thoughtful and well-presented testimony and with the deliberations by the Planning Commission. She advised that she agreed with Commissioner Pietz and added that Linfield has an opportunity before them to open their eyes and hearts to something good for the community. She stated her agreement with the Planning Commission's recommendation.

Councilor Ruden voiced his appreciation for the evening's experience. He stated that he believed the public hearing was an exercise in community democracy and it was carried out with respect. He stated that he believed the Planning Commission did a great job and he was in agreement with that body's recommendation. He stated that McMinnville is a wonderful community with a small town feel and he would like to protect that. He did not believe this decision will endanger the community. Times are changing and the community will sustain itself. He noted that he came into this decision-making process with an open mind and so much confidence in Linfield College. He felt that its best days are ahead of it - with its very capable administrators, professors, coaches, etc. He stated that he did not believe that a marijuana store would be a detriment to Linfield. He expressed agreement with the Planning Commission's recommendation.

Councilor Drabkin also expressed her appreciation to the community for the respectful manner in which the evening's proceedings were accomplished. She stated that she was unable to find any language or testimony that mandated a buffer around Linfield. While she understood and empathized with the school's point of view, in her mind the College did not provide the proof to show that a buffer was needed. She stated that she felt it very important to look at current law and to make the best decision possible. She did not hear any testimony that convinced her a buffer should be placed around Linfield. She stated that her vote was for approval as recommended by the Planning Commission.

Councilor Jeffries stated that it was a difficult decision for him. The ordinance as drafted was good. And while he believed that the bigger the buffer the better, and that as with so many issues we face in society today, this is a swinging door that swings just one way. We need to be very careful because the door will never fully close again. He asked whether he had heard correctly that a buffer already exists around Linfield. If a minor student was drinking alcohol along Highway 99W, within 1000 feet of the College, the campus could take action? Interim City Attorney advised while he was not completely familiar with federal acts, he opined that because Linfield College accepts federal monies, the ability to sanction Linfield students was available to the College. Councilor Jeffries then asked if, in a sense, the buffer already exists. Interim City Attorney Gowell agreed with Councilor Jeffries' assessment.

Interim City Attorney Gowell read by title only Ordinance No. 5000 amending the McMinnville Zoning Ordinance to provide standards for regulating marijuana business activities in McMinnville, as amended, and declaring an emergency. He read Chapter 17.64.040 (A)(6) as was amended by the Planning Commission. (No Councilor present requested that the ordinance be read in full.) The title of the ordinance was read for the second time.

Ordinance No. 5000 PASSED by a unanimous roll-call vote.

3 ADVICE / INFORMATION ITEMS

3 a and b COUNCIL AND DEPARTMENT HEAD REPORTS: Because of the lateness of the hour, both Council and Department Reports were suspended.

4 ADJOURNMENT: Mayor Olson adjourned the meeting at 9:23 p.m.

Rose A. Lorenzen, Recording Secretary