

**MINUTES FOR THE REGULAR MEETING  
ASHLAND CITY COUNCIL  
August 19, 2014  
Council Chambers  
1175 E. Main Street**

**CALL TO ORDER**

Mayor Stromberg called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers.

**ROLL CALL**

Councilor Voisin, Morris, Lemhouse, Rosenthal, and Marsh were present. Councilor Slattery was absent.

**MAYOR'S ANNOUNCEMENTS**

Park Commissioner Chair Stefani Seffinger introduced Michael Black as the newly appointed Parks & Recreation Director.

Mayor Stromberg announced vacancies on the Airport, Wildfire Mitigation, Forest Lands, Historic, Public Arts, and Tree Commissions.

**APPROVAL OF MINUTES**

The minutes of the Study Session of August 4, 2014, Business Meeting of August 5, 2014 and Goal Setting of August 8, 2014 were approved as presented.

**SPECIAL PRESENTATIONS & AWARDS**

Members of the Conservation Commission and Chair Marni Koopman presented the annual report from the Conservation Commission. The Commission listed accomplishments from 2013-14 as the following:

- The City Operations Sustainability Framework is in place
- The Community Sustainability Framework (STAR) is ready for the September 15 Study Session
- Storm drain monitoring
- Implementation of "car wash kits"
- "Water Audits" for gardens on tour
- Worked with schools to support existing anti-idling ordinance
- Events for Fourth of July, Compost classes, leaf bags, Earth Day, All-Schools Sustainability Competition and collaborated with OSF "Green" Green Show
- Provided support for action by the City on divestment from fossil fuels
- Served on the Recycle Center Ad Hoc Committee
- Researched viability of the "Bring your own bag" program

Listed priorities for 2014-15 as the following:

- Continue supporting events, outreach and education
- Action on climate change
- Progress on sustainability planning for both City Operations and the Community
- Additional work on waste minimization, protecting water quality, and water conservation

**CONSENT AGENDA**

1. Approval of commission, committee, and board minutes
2. Annual renewal of liquor licenses
3. Approval of an employment agreement with Michael Black as Director of Parks & Recreation
4. Class-Special Procurement - Day Wireless

**Councilor Rosenthal/Voisin m/s to approve Consent Agenda. Voice Vote: all AYES. Motion passed.**

## **NEW AND MISCELLANEOUS BUSINESS**

### **1. Approval of Memorandum of Understanding (MOU) between the Ashland City Council and the Ashland Parks and Recreation Commission**

City Administrator Dave Kanner presented the staff report on the proposed MOU between the City and the Parks and Recreation Commission. He explained that the City's external auditor had noted the absence of an MOU between the Commission and Council that needed correcting.

**Councilor Voisin/Rosenthal m/s to approve the MOU between the City Council and the Parks & Recreation Commission. Roll Call Vote: Councilor Voisin, Morris, Lemhouse, Rosenthal, and Marsh, YES. Motion passed.**

## **PUBLIC HEARINGS**

### **1. Public Hearing and first reading of an ordinance titled, "An ordinance replacing Title 18 Land Use of the Ashland Municipal Code with a reformatted and amended Land Use Ordinance"**

Community Development Director Bill Molnar, Planning Commission Chair Rich Kaplan, and Planning Manager Maria Harris presented the staff report on the proposed ordinances. Mr. Molnar explained the existing format of the land use ordinance was outdated. In 2006, staff hired consultant Scott Siegel to audit the land use code. Mr. Siegel produced a report that identified a number of phases to assess and ultimately reformat the code. Over the past two years staff worked with the Planning Commission to look at a new format and bring all the standards into one unified document. They created a matrix divided into six sections of proposed amendments to the land use code they would review periodically.

Chair Kaplan added the Planning Commission unanimously recommended Council adopt the reformatted and amended land use ordinance. The Commission indicated additional changes listed in the Council Communication and recommended further public input on commercial building height in areas greater than 100-feet from residential zones.

Ms. Harris explained this was a two-part project. One part was restructuring, reformatting, and combining the ordinance into one document. The second part was the proposed amendments. Staff based the structure on the state's model code and grouped the ordinance into six parts:

- Part 1 – Introduction and General Provisions
- Part 2 – Zoning Regulations
- Part 3 – Special Districts and Overlay Zones
- Part 4 – Site Development and Design Standards
- Part 5 – Application Review Procedures and Approval Criteria
- Part 6 - Definitions

The Planning Commission suggested the following revisions:

- E-1 Side and Rear Yard Abutting Residential Zone – 10-feet for the side yard and 10-feet per story for the rear yard
- Residential Uses in C-1, C-1-D, and E-1
- Parking and Street Frontage Standards – make is consistent with the conceptual plans
- Vision Clearance – leave as is
- Minimum Corner Lot Size – leave single family R-1-5 Zone at 6,000-feet

One of two outstanding issues was the proposal to allow four story buildings in the C-1 and C-1-D zones at least 100-feet from a residential zone and retain the conditional use permit to go up to 55-feet in the C-1-D zone in the 100-foot buffer.

Mayor Stromberg and Council discussed how they would process the changes in information and decided to have the Planning Commission and staff determine the amendments that had the most significant impact on the community. Council would also send questions and items to the Mayor and City Administrator to discuss in

special or regular Council meetings.

Ms. Harris continued the presentation. The second issue was density caps. Currently there were maximum density caps and the total density bonus on affordable housing allowed in multi-family developments and subdivisions. The maximum density bonus for affordable housing in R-2 and R-3 multifamily zones was 25% and 35% for subdivisions. The maximum total bonus for R-2 and R-3 multifamily was 40% and 60% for subdivisions. Conservation was 15% and additional open space could go up to 15%. The intention was encouraging utilization of multiple density bonuses. Affordable housing density bonuses increased the number of units. Conservation housing affected the type of unit.

Another substantive amendment was the affordable housing density bonus calculation. The current calculation allowed an additional affordable housing unit. The recommended amendment would allow an extra market rate unit if the project included an affordable unit.

Changes that affected commercial and employment zones would allow building separation on the same parcel for large-scale development. Another recommendation would update the definitions for motels and hotels. The state evaluated planning application procedures and green development. Both areas functioned well with few improvement suggestions.

The state compared City code with the LED-ND or Earth Advantage neighborhood model and had two recommendations. One would provide more cottage housing. Parameters would allow cottage housing in the R-1 and R-3.5 zones and be part of a performance standards options subdivision with a density bonus for every single-family unit done. The base density was two cottages for one single-family size each at 800 square feet. The maximum for cottage housing was 16. Cottage housing had reduced parking requirements as well.

Another recommendation from green development was building separation in multifamily zones that could prevent cottage housing. The recommendation would take half the height of the tallest building where the two buildings met and use that for building separation with a maximum of 12-feet.

An amendment to accessory residential units would make them subject to site review and eliminate the conditional use permit requirement.

A Planning application procedures evaluation compared the land use ordinance and procedures to all the minimum statutory requirements. Procedures did well with a recommendation to extend planning approval expirations and extensions. Currently planning approval expiration was 12-18 months. The recommendation would make all of them 18 months. Every planning application was good for one renewal and extension at 18-months and the recommendation would extend that to 24-months.

Also recommended was changing the effective date of a Type 2 decision from 13 days to 10 days. The amendment would not count the day mailed and change the deadline for appeals that fall on the weekend or holiday to the next business day.

Another recommendation would provide a more expedited process for land use review on economic development projects. Currently, a business with a 10,000 square foot building, or an addition more than 20% of the square footage required a public hearing. The amendment increased building size to 15,000 square feet and an additional building 50% of the square footage.

**Public Hearing Open: 8:24 p.m.**

**Colin Swales/95 Coolidge Street/Suggested adding hyperlinks to the document and update references to AMC 18 in chapter 12 of the Comprehensive Plan. He shared what he liked and that the definition for flag lots needed to change.**

**Public Hearing Closed: 8:29 p.m.**

**PUBLIC FORUM** - None

**UNFINISHED BUSINESS** - None

**ORDINANCES, RESOLUTIONS AND CONTRACTS**

**1. Approval of a resolution titled, "A resolution of the City Council establishing tax rates for the sale of marijuana, medical marijuana and marijuana-infused products in the City of Ashland"**

City Administrator Dave Kanner provided background and explained the resolution proposed a 5% tax rate on medical marijuana and 10% for recreational marijuana if it passed in the November election. Staff based the tax on cities that were taxing medical and recreational marijuana. The tax would compensate the City for the impacts of medical marijuana dispensaries in town. However, he did not want to establish a tax rate that was impunitive on the people who purchased medical marijuana. Theoretically under state law dispensaries were not supposed to make a profit, only recover costs.

The 10% tax on recreational marijuana was slight in comparison to tax imposed on alcohol. The wholesale mark up on alcohol charged by the Oregon Liquor Control Commission (OLCC) was 107%. He clarified Colorado had a statewide sales tax, a 2.9% sale tax applied specifically to marijuana, along with local jurisdiction general sales taxes and an additional marijuana tax on top of that.

City Attorney Dave Lohman thought there were two questions, one was what tax amount a court could find punitive and therefore invalidate a tax. The second question was what the legislature would conclude as inappropriate. No one would know what the preemptive language in the ballot measure meant until it passed. The City wanted to be in a position where they could tell the legislation the City's tax was reasonable and wanted the legislation to support the City even if it meant passing a piece of legislation that made it clear that it is not retroactive.

Mr. Kanner explained the ballot measure established specific taxes the OLCC would be responsible for administering. This was a statute the public would vote on and the legislature had unlimited discretion to modify it. Currently OLCC would impose a tax that included local jurisdictions but would not provide much revenue. OLCC had a task force already in place to determine how they would handle legalization and what their administrative structures would be. The proposed tax in the statute was an excise tax based on several things that included weight, number of flowers, and could potentially raise \$19,000,000-\$36,000,000 in revenue for the state. The state tax structure was not the same as the gross receipts tax proposed to Council. Mr. Kanner thought the ordinance would allow Council to adjust the tax amount if needed.

**Councilor Voisin/Rosenthal m/s to approve a resolution of the City Council establishing tax rates for the sale of marijuana, medical marijuana and marijuana-infused products in the City of Ashland.**

**Councilor Lemhouse/Marsh m/s to split the question into two parts, one regarding medical marijuana and the other regarding recreational marijuana. Voice Vote: all AYES. Motion passed.**

**Question #1: Motion to approve a resolution of the City Council establishing tax rates for the sale of recreational marijuana. DISCUSSION:** Mr. Kanner clarified that marijuana infused products could fall under medical or recreational. Councilor Voisin supported the motion. Councilor Rosenthal noted taxing both medical and recreational marijuana was appropriate and the tax amount met industry standards. Councilor Lemhouse agreed there should be a tax. Legalizing marijuana would become an added expense to the City and noted areas in Colorado dealing with accidental overdoses in children consuming marijuana infused products. Councilor Marsh supported a tax on recreational marijuana. If legalized, the City could easily classify it as a luxury item like alcohol and supported the 10% tax.

**Councilor Lemhouse motioned to amend the motion to make tax on recreational marijuana 20%. Motion**

died for lack of a second.

**Roll Call Vote on first question of motion: Councilor Lemhouse, Rosenthal, Voisin, Marsh, and Morris, YES. Motion passed.**

**Question #2: Motion to approve a resolution of the City Council establishing tax rates for the sale of medical marijuana. DISCUSSION:** Councilor Lemhouse was unaware of local taxation on prescription drugs. He did not think taxing medical marijuana was right and would oppose the motion. Councilor Marsh also opposed the motion. Currently the City did not tax medications or supplements. There was no purpose taxing medical marijuana other than the City thinking it could. This was a punitive tax and punished the end user. She had an issue with the earlier statement the tax would cover the cost of the dispensaries. The City had a permit process and protections in place and there was no need to take those costs from the actual user.

Councilor Voisin agreed but did not think this was punishment. The majority of medical marijuana issues dealt with minor pain. Dispensary owners would most likely absorb the tax. No one knew the impact dispensaries would have on the community and the protections in the current ordinances were not enough. She would support the ordinance. Councilor Rosenthal noted medical marijuana was not a prescription medicine and routinely taxed in several states. He supported the staff recommendation. Councilor Morris commented there was most likely a high percentage of users not using it medicinally but there were also people who did use it medicinally and it was truly a medicine. He would not support the motion.

Mayor Stromberg agreed the City should not tax medical marijuana. It was premature to make a judgment on dispensary impact as well. It was the Council's job to make taxes appear reasonable and consistent. The City could always adjust the tax down to zero. Councilor Marsh clarified Council could go from a zero tax to 5%. She supported the template for potentially taxing medical marijuana that Council passed through an ordinance at the last meeting. Mayor Stromberg was concerned the state might seize on rates set now through the grandfathering process. Mr. Lohman confirmed the tax structure was set at zero. Councilor Lemhouse did not think the state legislative would tell cities how to tax marijuana, and would allow them to do it based on how they allowed jurisdictions to handle medical marijuana. **Roll Call Vote: Councilor Rosenthal, and Voisin, YES; Councilor Lemhouse, Marsh, and Morris, NO. Motion failed 2-3.**

#### **OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS**

Councilor Lemhouse announced Saturday August 23, 2014 Ashland High School would have a football scrimmage along with a food drive.

Councilor Marsh invited the community to attend a Family Fest sponsored by the Ashland Resource Center and the Emergency Food Bank, August 27, 2014 4:00 p.m.-7:00 p.m. at the Ashland Resource Center.

Councilor Voisin thanked City staff and the Chamber of Commerce for the Drought Summit.

City Administrator Dave Kanner explained staff mailed postcards to specific water customers possibly affected by the upcoming test of the TAP line the week of August 25, 2014.

#### **ADJOURNMENT**

Meeting was adjourned at 9:13 p.m.

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Barbara Christensen, City Recorder

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John Stromberg, Mayor