

**MINUTES FOR THE STUDY SESSION
ASHLAND CITY COUNCIL
Monday, December 1, 2014
Siskiyou Room, 51 Winburn Way**

Mayor Stromberg called the meeting to order at 5:31 p.m. in the Siskiyou Room.

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

1. Public Input

Robert Kendrick/153 Will Dodge Way/Referenced the memo in the agenda packet from the Deputy Police Chief, noted the decrease in cases for O’Ryans Irish Pub and the Vinyl Club while cases on Will Dodge Way increased 86%, calls for service 127%, and 166% for on view. The two clubs on Will Dodge Way generated the noise and crowds. He thought this information would have resulted in a report or inspection and the response was there were no real issues raised. He read the codes when he built in the downtown and it showed the noise ordinance was enforced and that was not true. Builders should be told this information prior to building. The police would not write a citation for a noise complaint for a resident living in a downtown zone. He went on to read from Section 14.06 of the Title 14 Interstate Land Sales.

Madeline Hill/950 Golden Aspen Place/Explained the police had told them the noise ordinance did not work well in Will Dodge Way due to acoustics in the alley. The police also did not think the people walking in the alley had anything to do with the Vinyl Club and she disagreed. State regulations had requirements to control the activity around the bar. People were coming out the back door of O’Ryans Irish Pub to smoke. She questioned if it were possible for them to smoke outside the front door instead but heard from others that activity would not be tolerated on Main Street. The issue for her as a neighbor was the club had started to keep the back door open turning Will Dodge Way into a rent-free lobby. Another concern was potential fire danger in the Vinyl Club. The City should not encourage people to build in the downtown if the city was not inhabitable. She suggested third party bouncers to keep patrons from going out the back door of the clubs. She hoped Council would take action and make it more habitable for people to live downtown. She would not have bought or built downtown if she had known the City would not enforce the ordinances.

Mike Leslie/137 E Main Street/Explained he was the manager of O’Ryans Irish Pub and co-owner of the Vinyl Club. He suspected one or two individuals were responsible for the majority of the noise complaints. Both clubs had an open door policy with the Ashland Police Department and did their best to ensure the areas around the clubs were safe. All of their bouncers, including the ones at the back door are Department of Public Safety certified and trained. Mr. Leslie was also certified and the executive manager. They followed all the rules and regulations from the Oregon Liquor Control Commission (OLCC). He tried to work with Mr. Kendrick in the past but Mr. Kendrick ended up blowing up his phone with constant text messaging. He clarified the back door was always opened and had been for years. They also set scales to stop the music from exceeding decibel levels and did their best to keep Will Dodge Way safe with bouncers at the front and back doors. He was tired of being attacked. Changing the noise ordinance would affect all establishments and that included the Shakespeare Festival, Ashland Armory, and other businesses as well.

Louise Shawkat/870 Cambridge/Thought waiving the 10-cent paper bag fee would undermine the current ordinance education in progress. New habits were fragile and should not regress during the training period. It would also undermine the acceptance of responsibility by the businesses. Progress came with consistency. Ashland was a community fulfilling a goal of waste reduction. She encouraged Council to stay with the program. She went on to address the Look Ahead and noted the lack of

information regarding the consequences of climate change nor did she see a plan to mitigate carbon output. She did not think these matters should fall to the Conservation Commission alone. The time had come to reverse the political opportunism, outmoded thinking, and upside down urban priorities.

2. Look Ahead review

City Administrator Dave Kanner reviewed items on the Look Ahead.

3. Review of liquor license endorsement process

City Recorder Barbara Christensen explained her office processed approximately fifteen liquor licenses a year that included new licenses, and changes in ownership or location. The City currently had one hundred licenses that came to her for annual renewal. The Oregon Liquor Control Commission (OLCC) sent a list every July and the renewal period for businesses was September 1. She forwarded renewals to the Utilities Department to confirm business licenses were current and ensure businesses paid the Food and Beverage tax. The list also went to the Police Department. Changes in ownership or location and new license applications did not normally go through the Police Department. New liquor license applications went to Community Development for review in addition to the Utilities Department. Both the City Recorder and Deputy Police Chief recommended amending the code to include Police review for ownership and location changes.

Deputy Police Chief Tighe O'Meara further explained including the Police Department in the renewal review process would allow them to identify troubled areas and provide that information to Council. He addressed the negative-recommendation-threshold and clarified that multiple complaints might not merit a negative recommendation.

OLCC Investigator Amy Navine explained the process if Council denied a liquor license. The City would have 45 days to give the reason why they wanted the denial. The denial would go before two committees prior to a final decision by commissioners at the main OLCC office in Portland. OLCC would not grant new liquor licenses during that process but renewals could continue to operate. The City of Portland had a successful time, place, and manner ordinance that could help the City determine evidence needed in a denial. Calls for service were useful but did not break the law. OLCC would cite a liquor license if it was adjudicated civilly or criminally.

Deputy Chief O'Meara noted the Police Department was looking into using the Chronic Nuisance Ordinance on the tenant business owner and the property owner.

Ms. Navine clarified the licensee or applicant could appeal with an administrative hearing.

OLCC Region Inspector Matt Roberts explained the OLCC considered anyone in the area because a licensee exists to be under the responsibility of the club owner and expected the licensee to control, acknowledge, or take steps to alter that behavior that included calling the police not physically intervene or use force. The size of area varied according to the activity.

Deputy Chief O'Meara addressed public testimony that stated the noise ordinance was not enforced or applied appropriately. The location of the complaint determined how the police applied the ordinance or whether it was unreasonable.

The OLCC would not revoke a license based on noise ordinance violations unless it was a continual issue. It would have to reach a Class 4 or 5 violation of noise. Even then, OLCC considered Category 5 violations minimal. They could not take administrative action until there was criminal adjudication of the charges. The OLCC preferred compliance rather than administrative action. Statewide the OLCC had

not seized or revoked any licenses due to noise. Compliance worked well and the OLCC never had an incident that required a mediator.

Deputy Chief O'Meara did not think the City's noise ordinance needed modifying. Applying the current ordinances and working with Mr. Leslie and his partners would improve the present situation. City Attorney Dave Lohman added the noise ordinance was intentionally subjective. It was a reasonable person standard and appropriate.

Council supported the City Recorder and staff recommendation to include the Police Department in ownership and location changes. The situation with the clubs, Mr. Kendrick and Ms. Hill was a neighbor issue not an OLCC issue. Deputy Chief O'Meara would provide a report to Council on the changes they incorporated. Council majority was not in favor of updating the land use code regarding the matter at this time.

4. Discussion of Plaza master planning

Councilor Lemhouse explained a master plan would provide a vision for future Councils and serve as a possible guide for improvements over time. He suggested an ad Hoc committee to develop the plan.

Council noted the Downtown Parking Management and Circulation ad Hoc Advisory Committee was interested in looking at how the Plaza exists in relation to circulation and recommended delaying a master plan. Alternately, the Downtown Beautification Improvement ad Hoc Committee had several project recommendations for the Plaza and downtown that Council might want to consider. Council majority was not supportive of a master plan at this time.

Staff would bring some of the recommendations from the Downtown Beautification Improvement ad Hoc Committee to the next Council meeting for discussion and possible approval. Councilor Marsh asked Council to direct staff to contact the City of Phoenix and City of Talent regarding their use of hanging baskets. City Administrator Dave Kanner would add it to the December 16, 2014 meeting.

5. Discussion of Council seating arrangements

City Administrator Dave Kanner explained there was not a predominant method used by other cities regarding seating arrangements. Council noted two issues, one was the actual seating arrangement, and the other was accommodating medical issues.

Councilor Slattery thought the seating arrangement should remain as is. Councilor Voisin suggested sitting counter clockwise instead of the current arrangement of sitting clockwise. She had learned that several Councilors thought she wanted to change the seating arrangement to sit closer to the City seal and that was not true. Councilor Slattery raised a point of clarification noting two Councilors had already traded seats with her and wanted to know where she got her information. Councilor Voisin had received this information from another Councilor. Councilor Slattery thought the accusation was ridiculous and he had initially changed seats with her due to medical issues she was experiencing. Councilor Voisin responded with a point of order explaining she had a medical note requiring her to sit in a seat that accommodated her medical condition.

Councilor Lemhouse raised a point of order. Council was there to discuss two issues, one was setting a seating arrangement, and now there was this issue of a medical condition and Council had not addressed seating. Mayor Stromberg granted Councilor Lemhouse's point of order.

Councilor Voisin thought if there were actual seats in Council that had particular power due to the proximity to the seal, seating should rotate. Councilor Marsh suggested rotating one chair every year for consistency then everyone had a chance to sit in a variety of chairs. Councilor Lemhouse noted although

there were numbered positions on Council, it did not represent areas. Councilors should sit in the position they chose to run for and the subsequent seat. If someone wanted another seat, he or she should run for it during the election. Each Councilor had the opportunity to run for specific positions. He preferred the current arrangement and suggested adding seating to Council Rules.

Councilor Slattery thought the issue was perceived power spots and this was about one person wanting to sit by the seal. Councilor Voisin raised a point of clarification to confirm Councilor Slattery was stating the reason for her request was to sit closer to the seal. Councilor Slattery responded 90% of people present would agree that was what she said. Councilor Voisin clarified that was not what she said. Councilor Slattery supported the current seating arrangement.

Councilor Rosenthal did not think the traditional seating arrangement was flawed. There was nothing wrong with the current seating. It did not matter to him where he sat and he did not support changing the seating.

The majority of Council supported the current seating arrangement. Councilor Voisin added if the seating remained in order and consistent, it should extend to how Councilors were set-up on the website. Currently it was alphabetical. Councilor Lemhouse raised a point of order explaining the discussion was not about the website.

Council went on to discuss exceptions. City Attorney Dave Lohman explained that Council was elected and not considered employees so the Americans with Disabilities Act (ADA) did not apply to this situation.

Councilor discussed exceptions. They were fine if a Councilor wanted to make changes for another while others thought if there was a medical condition, the Mayor should negotiate changing seats. Others added that an independent doctor should verify the need, the Councilor should take that information to the Mayor who would seek one or two Councilors that might accommodate the request, keeping it as confidential as possible. The City would pay for the independent medical evaluation.

Mayor Stromberg, the City Administrator, and City Attorney would put together something that captured what was discussed and bring it back to a future Study Session.

6. Discussion of temporary waiver of 10-cent paper bag fee

Councilor Lemhouse explained there was inconsistency regarding the 10-cent bag fee and suggested a hiatus on the fee for the month of December. Councilor Voisin noted the education program the City launched for the businesses and thought waiving the fee sent a confusing message. Councilor Slattery added the City should not back off on a policy because it was inconvenient for those who had to put it in place.

The Chamber of Commerce was forming a marketing committee regarding the fee and would have something in place by the next tourist season. The executive director for the Chamber was also creating a card explaining the 10-cent fee businesses could place next to their cash registers.

Some of Council was interested in looking at the fee and possibly adjusting exemptions after a year. Other comments agreed this was not the time for enforcement while businesses were adjusting to the change.

Meeting adjourned at 7:47 p.m.

Respectfully submitted,

Dana Smith
Assistant to the City Recorder